

SLIAMMON FIRST NATION
FINANCIAL ADMINISTRATION LAW, 2011

TABLE OF CONTENTS

Part I	4
Interpretation and Application	4
Short Title.....	4
Definitions	4
Interpretation	9
Posting of Public Notice.....	10
Calculation of Time.....	10
Conflict of Laws	11
Scope and Application.....	11
PART II	11
ADMINISTRATION.....	11
Division One – Council	11
Responsibilities of Council	11
Council Policies, Procedures and Directions	12
Reporting of Remuneration, Expenses and Contracts.....	12
Division Two – Finance and Audit Committee	13
FAC Established.....	13
Chair	14
FAC Procedures	14
Financial Planning Responsibilities	15
Audit Responsibilities	15
Council Assigned Responsibilities.....	16
Division Three – Officers and Employees	16
CAO	17
Human Resources Officer	17
CFO	18
Tax and Lands Manager.....	20
Organizational Structure.....	20
Division Four – Conduct Expectations	21
Conduct of Councillors	21
Conduct of Officers, Employees, Contractors, etc.....	21
Part III.....	22
Financial Management	22
Division One – Financial Plans and Annual Budgets	22
Fiscal Year.....	22
Multi-Year Financial Plan.....	22
Content of Annual Budget.....	22
Budget and Planning Process Schedule.....	23
Amendments to Annual Budgets.....	24
Local Revenue Account Budget Requirements.....	24
Informing and Involving Members of the Band.....	24
Division Two - Financial Institution Accounts	24

Financial Institution Accounts.....	25
Accounts Management	27
Division Three – Expenditures	27
Prohibited Expenditures	27
No Expenditure Without Appropriation	28
Extraordinary Expenditures.....	28
Emergency Expenditures.....	28
Appropriations.....	28
Payments After Fiscal Year End	28
Division Four – General Matters	29
Division Five – Borrowing	30
Limitations on Borrowing	30
Financial Agreements.....	30
Borrowing Member Requirements.....	30
Borrowing for Repayment of Debts	30
Use of Borrowed Money	30
Execution of Security Documents.....	31
Operational Controls	31
Division Six - Risk Management	31
Risk-Management of For-Profit Activities.....	31
Guarantees and Indemnities	32
Authority to Invest.....	33
Approved Investments.....	33
Administration of Investments	34
Risk Assessment and Management	34
Insurance.....	35
Division Seven – Financial Reporting	35
Accounting Practices	35
Financial Activity Reports.....	35
Monthly Financial Information	35
Quarterly Financial Statements	35
Annual Financial Statements.....	36
Appointment of Auditor	37
Audit Requirements.....	37
Auditor’s Authority	37
Review of Audited Annual Financial Statements	38
Access to Annual Financial Statements	39
Annual Report	39
Division Eight – Information and Information Technology	40
Ownership of Records	40
Operations Manual	40
Record Keeping and Maintenance.....	40
Local Revenue Account Records	41
Confidentiality of Information	41
Information Technology	41
Part IV	41
Capital Projects	41

Council General Duties	41
Reports on Capital Projects	42
Review by Finance and Audit Committee	44
Capital Projects – Contracts and Tenders.....	44
Capital Project Consultants	45
Part V	45
Miscellaneous	45
Compliance with Standards.....	45
Land Management Obligations	45
Reports of Breaches and Financial Irregularities, etc.....	45
Inquiry into Report	46
Protection of Parties	46
Liability for Improper Use of Money.....	46
Indemnification Against Proceedings	47
Periodic Review of Law	47
Provision of Law to FNFA.....	47
Coming Into Force	47

SLIAMMON FIRST NATION FINANCIAL ADMINISTRATION LAW, 2011

WHEREAS Pursuant to paragraph 9(1)(a) of the *First Nations Fiscal and Statistical Management Act*, the council of a First Nation may make laws respecting the financial administration of the First Nation;

A First Nation must pass, and the First Nations Financial Management Board must approve, a financial administration law under paragraph 9(1)(a) of the Act before the First Nation can become a borrowing member of the First Nations Finance Authority, as per sections 4 and 5 of the Act;

The Council of the Sliammon First Nation wishes to become a borrowing member of the First Nations Finance Authority and deems it to be in the best interests of the Band to make a financial administration law for such purposes,

NOW THEREFORE the Council of the Sliammon Indian Band, at a duly convened meeting, enacts as follows:

PART I INTERPRETATION AND APPLICATION

Short Title

1. (1) This law may be cited as the *Sliammon First Nation Financial Administration Law, 2011*.

Definitions

2. (1) Unless the context indicates the contrary, in this law:

“Act” means the *First Nations Fiscal and Statistical Management Act*;

“agent” means a person, who may or may not be an employee, who has been appointed by resolution to represent the Band in dealing with third parties;

“annual financial statements” mean the annual financial statements of the Band, prepared by the CFO, in accordance with section 64;

“annual report” means the annual report of the Band, prepared by the Council, in accordance with section 70;

“appropriation” means an allocation of money under a budget to the purposes for which it may be used;

“auditor” means the person appointed by the Council as the auditor for the Band in accordance with section 65;

“authorized signatory” means any or all of the CFA, CFO, tax and lands manager, and any Councillors whom the Council have, by resolution, designated as an authorized signatory;

“the Band” means the Sliammon First Nation (Indian Band), being a band named in the schedule to the Act;

“the Band’s financial assets” means non-tangible, non-physical assets held by the Band, including any interest, any related security or collateral, in any

(a) debt, receivable, account, claim or other right to payment,

(b) contract or obligation that generates or secures any thing referred to in paragraph (a), and

(c) security, other than a voting share of a corporation or an interest in a combination of entities, backed or secured by, or representing an interest in, a thing referred to in paragraph (a) or (b) or in both paragraphs (a) and (b));

“the Band’s lands” means all of the Band’s reserves, within the meaning of subsection 2(1) of the *Indian Act*, and includes all lands that are or become subject to a Land Code;

“the Band’s tangible capital assets” mean all non-financial assets of the Band having physical substance that

(a) are held for use in the production or supply of goods and services, for rental to others, for administrative purposes or for the development, construction, maintenance or repair of other tangible capital assets,

(b) have useful economic lives extending beyond one accounting period,

(c) are to be used on a continuing basis,

(d) are not for sale in the ordinary course of operations, and

(e) have a historical or replacement cost of at least \$10 000;

“borrowing member qualification certificate” means a certificate issued by the FMB upon successful completion of an operational review in accordance with the relevant FMB standards;

“budget” means the annual budget of the Band that has been approved by the Council in accordance with section 27;

“capital project” means the construction, rehabilitation or replacement of the Band’s tangible capital assets and any other major capital projects in which the Band or its related bodies are investors;

“capital revenues” means revenues

(a) the Band receives from long-term lease agreements,

(b) the Band receives from specific land claim settlements,

(c) the Band receives from settlements related to treaty that have not been allocated to treaty-related trust funds or for a specific purpose or use, and

(d) of \$500,000 or more that the Band receives from any source in any given year,

but does not include operational or block funding received from INAC or other sources;

“Chair” means the Chair of the FAC, appointed by the Council in accordance with section 12;

“Chief Administrative Officer” or “CAO” means the person appointed by the Council in accordance with section 17;

“Chief Financial Officer” or “CFO” means the person appointed by the Council in accordance with section 19, and this title may be amended from time to time;

“committee member” means a member of a committee of the Council, including the FAC, or a member of a committee of the Band;

“contractor” means a person who is not an employee of the Band, but who works for the Band under a contract for services;

"Council" has the meaning given to that term in the Act;

“Councillor” means a member of the Council of the Band;

“dependent child” means, in relation to an individual, a child who

(a) has not reached the age of 18 years, or

(b) has reached the age of 18 years, but is primarily dependent for financial support on

i. a Councillor or the spouse of a Councillor, or

ii. the CAO or the spouse of the CAO;

“director” means a person who manages, supervises or controls a department of the Band or of a related body, and includes the CAO, the CFO, the Executive Director of Tla’amin Health, and the tax and lands manager;

“FAC” means the Finance and Audit Committee established under section 11;

“family member” means, in relation to a Councillor or to the CAO, that person’s spouse, dependent children, or dependent children of the spouse;

“financial administration” means the management, supervision, control and direction of all matters relating to the financial affairs of the Band;

“financial competency” means the ability to read and understand financial statements that present accounting issues reasonably expected to be raised by the Band’s financial statements;

“financial institution” means the FNFA, a bank, or a credit union;

“financial records” mean all records respecting the financial administration of the Band, including the minutes of relevant meetings of the Council or the FAC;

“fiscal year” means the 12-month period of time that the Band uses for accounting purposes, set out in section 24;

"FMB" means the First Nations Financial Management Board established under the Act;

“FMB standards” mean the standards established from time to time by the FMB under the Act;

“FNFA” means the First Nations Finance Authority established under the Act;

“FNTC” means the First Nations Tax Commission established under the Act;

“FNTC standards” mean the standards established from time to time by the FNTC under the Act;

“FPP” means the Sliammon Indian Band Financial Policies and Procedures;

“GAAP” means generally accepted accounting principles adopted by the Canadian Institute of Chartered Accountants or other organization, that are at least comparable to the standards generally accepted for governments in Canada, as amended or replaced from time to time;

“GAAS” means generally accepted auditing standards adopted by the Canadian Institute of Chartered Accountants, Certified General Accountants Association of Canada, or other organization, that are at least comparable to the standards generally accepted for governments in Canada, as amended or replaced from time to time;

“guarantee” means a promise or agreement by a person to be liable for the debt or obligation of another person who is primarily responsible for the debt or obligation;

“human resources manual” means the Sliammon Indian Band Human Resources Manual adopted by the Council, which governs the relationship between the Band and its employees;

“human resources officer” means the person appointed by the Council as the human resources officer in accordance with section 18;

“impress fund” means money set aside separately that is subject to being audited, and for which, by policy, the cash available to disburse plus the supporting receipts or vouchers for money already disbursed equals an authorized fixed amount known as the impress amount;

“INAC” means Indian and Northern Affairs Canada;

“indemnity” means

- (a) a promise to make a person whole from specified losses or costs they may suffer, or
- (b) payment of compensation to make a person whole from a loss they have already suffered;

“Land Code” means the *Sliammon First Nation Land Code*, enacted under the *First Nations Lands Management Act*;

“law of the Band” means any law, bylaw, Land Code or other enactment that is made by the Council or by members of the Band;

“life-cycle management program” means the program of inspection, review and planning for management of the Band’s tangible capital assets as described in section 79;

“local revenue account” means a local revenue account referred to in section 13 of the Act;

“local revenue law” means a local revenue law made by the Band under the Act;

“local revenue” means money raised under a local revenue law;

“multi-year financial plan” means the plan prepared in accordance with section 27, and approved by the Council pursuant to section 25;

“natural resource” means any material, in its natural state, found on or under the Band’s lands which, when extracted, captured or harnessed, has economic value;

“officer” means the CAO, human resources officer, CFO, tax and lands manager and any other employee of the Band designated by the Council as an officer;

“record” means anything on which information is recorded or stored by any means whether graphic, electronic, mechanical or otherwise;

“rehabilitation” includes alteration, extension and renovation but does not include routine maintenance;

“related body” means

- (a) any agency of the Band,
- (b) any corporation in which the Band has a material interest or that is controlled by the Band,
- (c) any partnership in which the Band, an agency of the Band, or a corporation of the Band is a partner, or
- (d) a trust of the Band;

“replacement” includes substitution, in whole or in part, with another of the Band’s tangible capital assets;

“representative of the Band” means a current or former Councillor, officer, or designated employee of the Band;

“resolution” means a motion passed and approved by a majority of the Council present at a duly convened meeting;

“SDC” means the Sliammon Development Corporation, a company duly incorporated under the laws of the Province of British Columbia, with a registered office at Sliammon Indian Reserve No. 1, British Columbia, V8A 4Z3;

“special purpose report” means a report described in subsection 64(3);

“spouse” means, in relation to an individual, a person to whom the individual is married or with whom the individual has lived as a common law partner, in a marriage-like relationship, for at least one year;

“tax and lands manager” means the person appointed by the Council to administer the local revenue laws, local revenue accounts, and local revenue budgets; and

“trust account” means an account into which funds are held and managed by a trustee on behalf of the Band.

(2) Except as otherwise provided in this law, words and expressions used in this law have the same meanings as in the Act.

(3) Unless a word or expression is defined under subsection (1) or (2) or another provision of this law, the definitions in the *Interpretation Act* apply.

(4) Except as otherwise indicated, all references to named enactments in this law are to enactments of the Government of Canada.

Interpretation

3. (1) In this law, the following rules of interpretation apply:

(a) words in the singular include the plural, and words in the plural include the singular;

(b) if a word or expression is defined, other parts of speech and grammatical forms of the same word or expressions have corresponding meanings;

(c) the expression “shall” is to be construed as imperative, and the expression “may” is to be construed as permissive;

(d) unless the context indicates otherwise, “including” means “including, but not limited to”, and “includes” means “includes, but not limited to”;

(e) where a provision in this law is expressed in the present tense, the provision applies to the circumstances as they arise;

(f) headings form no part of this law and shall be construed as being inserted for convenience of reference only; and

(g) a reference to a document or an enactment includes any amendment or replacement of it and, in the case of an enactment, includes every regulation made under it.

(2) In this law, references to a Part (e.g. Part I), section (e.g. section 1), subsection (e.g. subsection 2(1)), paragraph (e.g. paragraph 3(4)(a)) or subparagraph (e.g. subparagraph 3(4)(a)(i)) is a reference to the specified Part, section, subsection, paragraph or subparagraph of this law, except where otherwise stated.

(3) Provisions that apply to an officer, by name of office or otherwise, also apply to any person designated, assigned or delegated under this law to act in the officer's place.

(4) The provisions of this law are severable, and where any provision of this law is for any reason held to be invalid by a decision of a court of competent jurisdiction, the invalid portion shall be severed from the remainder of this law and the decision that it is invalid shall not affect the validity of the remaining portions of this law.

(5) This law shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

Posting of Public Notice

4.(1) Unless expressly provided otherwise, if a public notice shall be posted under this law,

(a) the notice shall be posted at least 10 days before the date of the meeting; and

(b) the public notice is properly posted if a written notice is

(i) placed in the reception area of the band office.

Calculation of Time

5. In this law, time shall be calculated in accordance with the following rules:

(a) where the time limited for taking an action ends or falls on a holiday, the action may be taken on the next day that is not a holiday;

(b) where there is a reference to a number of days, not expressed as "clear days", between two events, in calculating that number of days the day on which the first event happens is excluded and the day on which the second event happens is included;

(c) where a time is expressed to begin or end at, on or within a specified day, or to continue to or until a specified day, the time includes that day;

- (d) where a time is expressed to begin after or to be from a specified day, the time does not include that day; and
- (e) where anything is to be done within a time after, from, of or before a specified day, the time does not include that day.

Conflict of Laws

- 6. (1) If there is a conflict between this law and another law or regulation of the Band, other than a Land Code or a local revenue law, this law prevails to the extent of the conflict.
- (2) If there is a conflict between this law and the Act, the Act prevails to the extent of the conflict.
- (3) If there is a conflict between this law and the Land Code, the Land Code prevails to the extent of the conflict.
- (4) If there is a conflict between this law and a local revenue law, the local revenue law prevails to the extent of the conflict.

Scope and Application

- 7. This law applies to the financial administration of the Band.

PART II
ADMINISTRATION

Division One – Council

Responsibilities of Council

- 8. (1) The Council is responsible for all matters relating to the financial administration of the Band, whether or not they have been assigned or delegated to an officer, employee, committee, contractor or agent by or under this law.
- (2) Notwithstanding subsection (1), and subject to paragraph 5(1)(f) of the Act, this law and any other applicable Band law, the Council may delegate to any of its officers, employees, committees, contractors or agents any of its functions under this law except the following:
 - (a) the approval of Council policies, procedures or directions;
 - (b) the appointment of members of the FAC;
 - (c) the appointment of the Chair of the FAC;
 - (d) the approval of budgets and financial statements of the Band;

(e) the approval of borrowing of the Band.

Council Policies, Procedures and Directions

9. (1) Subject to subsection (2), the Council

(a) may establish policies and procedures and give directions respecting any matter relating to the financial administration of the Band;

(b) shall establish policies or procedures or give directions respecting the acquisition, management and safeguarding of the Band's assets;

(c) shall establish policies and procedures requiring related bodies to design and implement effective human resources and financial administration policies and procedures.

(2) The Council shall not establish any policies or procedures or give any directions relating to the financial administration of the Band that are in conflict with this law, the Act or GAAP.

(3) The Council shall ensure that all human resources policies and procedures are designed and implemented to facilitate effective internal financial administration controls.

(4) The Council shall ensure that it enters into agreements with all related bodies requiring regular financial and performance reporting to Council.

(5) The Council shall document all its policies, procedures and directions and make them available to any person who is required to act in accordance with them or who may be directly affected by them.

(6) The Council may, by resolution, make regulations respecting

(a) conflicts of interest; or

(b) any other matter related to the financial administration of the Band as the Council, on the recommendation of the FAC, deems necessary.

(7) Any regulation made in accordance with subsection (5) shall be amended by resolution.

Reporting of Remuneration, Expenses and Contracts

10. (1) Annually the senior financial officer shall prepare, and include with the annual financial statements, a special purpose report separately listing

(a) each Councillor,

(b) every family member of each Councillor,

(c) the CAO, and

(d) every family member of the CAO,

and setting out, for each person listed above, the following information:

(e) the total amount of remuneration, expenses and benefits received from the Band; and

(f) any contracts with the Band for the supply of goods or services.

(2) Subsection (1) does not require the reporting of remuneration, expenses or benefits received

(a) in common by all members of the Band;

(b) under a program or service universally accessible to all members of the Band on published terms and conditions; or

(c) from a trust arrangement according to the terms of the trust.

Division Two – Finance and Audit Committee

FAC Established

11. (1) The Finance and Audit Committee of the Band is established.

(2) The Council shall appoint not less than three members to the FAC, a majority of whom shall be financially competent.

(3) At least 25% of the FAC members shall be Councillors.

(4) All candidates for the FAC shall undergo a criminal record check, the results of which are satisfactory to the Council, before they can be considered for an appointment to the FAC.

(5) Subject to subsection (7), the Council shall appoint FAC members to hold office for staggered terms, as follows

(a) Councillors shall be appointed to the FAC as soon as practicable following Council elections and shall sit on the FAC until the next election;

(b) non-Councillors shall be appointed for three year terms, beginning on September 1 and ending on August 31 three years thereafter; and

(c) notwithstanding paragraphs (a) and (b), for their first terms only, Council shall appoint FAC members as soon as practicable after this law comes into effect, who will serve until

(i) the next Council election, in the case of Councillors, and

(ii) December 31 of the second full fiscal year after their appointment, in the case of non-Councillors.

(6) The Council may terminate the appointment of a member of the FAC for cause, including where a member

(a) is convicted of an offence under the *Criminal Code*;

(b) has unexcused absences from three (3) consecutive FAC meetings;

(c) terminates or is terminated from their position with the Band; or

(d) fails to perform any of their duties under this law in good faith and in accordance with the terms of this law.

(7) The Council may develop policies regarding the composition of the FAC and the criteria for eligibility for appointments to the FAC.

Chair

12. (1) The Council shall appoint the Councillor who holds the Finance Portfolio as the Chair of the FAC.

FAC Procedures

13. (1) The quorum of the FAC is a majority of members, including at least one Councillor.

(2) Unless a FAC member is not permitted to participate in a decision because of a conflict of interest, every FAC member has one vote in all FAC decisions.

(3) In the event of a tie vote in the FAC, the Chair may cast a second tie-breaking vote.

(4) Subject to subsection (5), the shall be notified of all FAC meetings and shall attend those meetings, subject to reasonable exceptions.

(5) The CAO or the CFO may be excluded from all or any part of a FAC meeting if

(a) the subject matter relates to a confidential personnel or performance issue respecting the CAO or the CFO; or

(b) it is a meeting with the auditor.

(6) If the CAO or CFO is excluded from all or any part of a FAC meeting in accordance with subsection (5), then the remainder of the FAC meeting shall be held *in camera*.

(7) The FAC shall meet

(a) at least once every three months in each fiscal year as necessary to conduct the business of the FAC; and

(b) as soon as practical after it receives the audited annual financial statements and report from the auditor.

(8) The FAC shall provide minutes of its meetings to the Council and report to the Council on the substance of each FAC meeting as soon as practicable after each meeting.

(9) Subject to this law and any directions given by the Council, the FAC may make rules for the conduct of its meetings.

(10) The FAC may, at the discretion of the Chair, retain a consultant to assist in the performance of any of its responsibilities.

Financial Planning Responsibilities

14. (1) The FAC shall carry out the following activities in respect of the financial administration of the Band:

(a) annually review, develop, and recommend to the Council for approval, multi-year financial plans, projections and priorities based on the most recent actual receipts and expenditures;

(b) review draft annual budgets and recommend them to the Council for approval;

(c) on an ongoing basis, monitor the financial performance of the Band against the budget and report any significant variations to the Council;

(d) review the quarterly financial statements and recommend them to the Council for approval; and

(e) consider all financial matters that Council refers to the FAC.

(2) The FAC may make a report or recommendations to the Council on any matter respecting the financial administration of the Band that is not otherwise specified to be its responsibility under this law.

Audit Responsibilities

15. The FAC is responsible for the following audit activities in respect of the financial administration of the Band:

(a) make recommendations to the Council on the selection, engagement and performance of an auditor;

(b) receive assurances on the independence of a proposed or appointed auditor;

(c) review, and make recommendations to the Council on, the planning, conduct and results of audit activities;

(d) review, and make recommendations to the Council, on the audited annual financial statements, including the auditor's memo or management letter, the audited local revenue account financial statements and any special purpose reports;

- (e) the post-audit and any internal management letter concerning material findings or recommendations of the auditor and any follow up to rectify identified internal control weaknesses;
- (f) periodically review, and make recommendations to the Council, on policies, procedures and directions on reimbursable expenses and benefits of the Councillors, officers and employees of the Band;
- (g) monitor financial reporting risks and fraud risks and the effectiveness of mitigating controls for those risks taking into consideration the cost of implementing those controls;
- (h) conduct a review of this law at least six months before the expiry of a borrowing member qualification certificate and, where appropriate, recommend amendments to the Council;
- (i) periodically review, and make recommendations to the Council on, the purpose and mandate of the FAC; and
- (j) any other matter the auditor brings to the FAC's attention.

Council Assigned Responsibilities

- 16.** The Council may assign to the FAC or another committee of the Council the following activities in respect of the financial administration of the Band:
- (a) to develop, and recommend to the Council for approval, performance measurements and goals designed to confirm that management activities, including financial management, occur as planned;
 - (b) to review, and report to the Council on, the financial content of any reports of the Band;
 - (c) to review, monitor and report to the Council on the appropriateness of the Band's accounting and financial reporting systems, policies and practices;
 - (d) to review, and recommend to the Council for approval, any proposed significant changes in the Band's accounting or financial reporting systems, policies, procedures or directions;
 - (e) to review, and report to the Council on the Band's risk management policies and control and information systems and, where appropriate, recommend improvements to the Council;
 - (f) to review the adequacy of security of information, information systems and recovery plans and, where appropriate, recommend improvements to the Council; and
 - (g) to review, monitor, and report to the Council on the adequacy and appropriateness of the Band's insurance coverage respecting significant risks to the Band.

Division Three – Officers and Employees

CAO

17. (1) The Council shall appoint a person as CAO of the Band and shall set the terms and conditions of that appointment.

(2) Reporting to the Council, the CAO is responsible for leading the planning, organization, implementation and overall management of all the day-to-day operations of the Band including the following duties:

(a) to oversee, supervise and direct the activities of all officers and employees of the Band;

(b) to oversee and administer the contracts of the Band;

(c) to liaise with legal counsel, government officials, and contractors and agents of the Band;

(d) to hire the employees of the Band as the CAO considers necessary, at the recommendation of the human resources officer;

(e) to perform any other duties of the CAO under this law;

(f) to assume the duties and responsibilities of the human resources officer, in accordance with section 18(2), if one has not been appointed by the Council; and

(g) to assume the duties and responsibilities of the CFO, in accordance with section 18(2), if one has not been appointed by the Council; and

(h) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the CAO's duties specified in this law.

(3) The CAO may assign the performance of any of the CAO's duties or functions

(a) to an officer or employee of the Band, and

(b) with the approval of the Council, to a contractor or agent of the Band,

provided that the person reports directly to the CAO or, in the absence of the CAO, to the Council.

(4) Any assignment of duties or functions under subsection (3) does not relieve the CAO of the responsibility to ensure that these duties or functions are carried out properly.

Human Resources Officer

18. (1) The Council may appoint a person as human resources officer of the Band and shall set the terms and conditions of that appointment.

(2) Reporting to the CAO, the human resources officer is responsible for the overall management, organization and implementation of all of the Band's human resources, in accordance with the human resources manual, including the following duties:

(a) to develop and recommend to the Council for approval, human resources policies and procedures for the hiring, management and dismissal of officers and employees of the Band;

(b) to prepare and recommend to the Council for approval, the powers, duties and functions of all employees of the Band;

(c) to pre-screen candidates and make recommendations to the CAO regarding the hiring of the employees of the Band, and to set the terms and conditions of their employment;

(d) to prepare, recommend to the Council and maintain and revise as necessary the organization chart referred to in section 21;

(e) to perform employee evaluations in accordance with the human resources manual;

(f) to perform any other duties of the human resources officer under this law; and

(g) to carry out any other activities specified by the Council that are not contrary to the Act or inconsistent with the human resource officer's duties specified in this law.

(3) The human resources officer may, with the approval of the CAO, assign the performance of any of the human resources officer's duties or functions

(a) to an officer, employee or committee of the Band, and

(b) to a contractor or agent of the Band,

provided that the person reports directly to human resources officer or, in the absence of the human resources officer, to the CAO.

(4) Any assignment of duties or functions under subsection (3) does not relieve the human resources officer of the responsibility to ensure that these duties or functions are carried out properly.

CFO

19. (1) The Council shall appoint a person as CFO of the Band and may set the terms and conditions of that appointment.

(2) Reporting to the CAO, the CFO is responsible for the day-to-day management of the systems of the financial administration of the Band including the following duties:

(a) to administer and maintain the accounts of the Band, including the local revenue account;

- (b) to ensure that the financial administration systems, policies, procedures, directions and internal controls are appropriately designed and operating effectively;
- (c) to prepare the draft annual budgets;
- (d) to prepare the monthly financial information required in section 62, the quarterly financial statements required in section 63 and the annual financial statements required in section 64;
- (e) to prepare the financial components of reports to the Council and of any short, medium and long term plans, projections and priorities referred to in subsection 14(1);
- (f) to actively monitor compliance with any agreements and funding arrangements entered into by the Band;
- (g) to administer and supervise the preparation and maintenance of financial records and the financial administration reporting systems;
- (h) to administer and supervise the maintenance of the records of all receipts and expenditures of the Band to facilitate the annual audit;
- (i) to identify, assess, monitor and report on financial reporting risks and fraud risks;
- (j) to monitor and report on the effectiveness of mitigating controls for the risks referred to in paragraph (i), taking into consideration the cost of implementing those controls;
- (k) to actively monitor compliance with all financial aspects of the Band's legal obligations, and with any policies, procedures and directions of the Council respecting the financial administration of the Band, other than those matters that are the responsibility of the tax and lands manager under this law, another Band law or the Act;
- (l) to prepare or provide any documentation and financial information required by the Council or the FAC to discharge its responsibilities;
- (m) to evaluate the financial administration systems of the Band and recommend improvements;
- (n) to develop and recommend procedures for the safeguarding of assets, and ensure that approved procedures are followed;
- (o) to develop and recommend procedures for identifying and mitigating financial reporting and fraud risks, and ensure that approved procedures are followed;
- (p) to perform any other duties of the CFO under this law; and
- (q) to carry out any other activities specified by the Council that are not inconsistent with the CFO's duties under this law.

(3) The CFO may assign the performance of any of the duties or functions of the CFO to any officer, employee, contractor or agent of the Band but this assignment does not relieve the CFO of the responsibility to ensure that these duties or functions are carried out properly.

Tax and Lands Manager

20. (1) The Council shall, under its local revenue laws, appoint a person as tax and lands manager of the Band and may set the terms and conditions of that appointment.

(2) Reporting to the CAO, the tax and lands manager is responsible for the day-to-day management of the local revenue system of the Band including the following duties:

(a) to administer and maintain the Band's local revenue accounts;

(b) to administer all local revenues of the Band;

(c) to prepare any draft amendments to the component of the annual budget respecting the Band's local revenue account;

(d) to actively monitor compliance with the Band's legal obligations, and with any policies, procedures and directions of the Council respecting the Band's local revenue system, other than those matters that are the responsibility of the CFO under this law, another law of the Band, or the Act;

(e) to prepare or provide any documentation and financial information required by the Council or the FAC;

(f) to evaluate the local revenue system of the Band and recommend improvements;

(g) to perform any other duties of the tax and lands manager under this law or under the Band's local revenue laws; and

(h) to carry out any other activities specified by the Council that are not inconsistent with the tax and lands manager's duties under this law or under the Band's local revenue laws.

(3) With the approval of the CAO, the tax and lands manager may assign the performance of any of the duties or functions of the tax and lands manager under this law to any officer, employee, contractor or agent of the Band but this assignment does not relieve the tax and lands manager of the responsibility to ensure that these duties or functions are carried out properly.

Organizational Structure

21. (1) The Council shall establish and maintain a current organization chart for the governance, management and administrative systems of the Band.

(2) The Band shall, in its organization chart, job descriptions, or other written documents, set out the principal powers, duties and functions of all employees of the Band.

(3) On request, the CAO shall provide a copy of the organization chart under subsection (1) to a Councillor, a member of a committee, an officer, employee or contractor or agent of the Band and a member of the Band.

(4) In the course of discharging their responsibilities under this law, the human resources officer shall recommend to the Council, for approval and implementation, human resource policies and procedures that facilitate effective internal financial administration controls.

(5) The Council shall take all reasonable steps to ensure that the Band hires or retains qualified and competent personnel people to carry out the financial administration activities of the Band.

Division Four – Conduct Expectations

Conduct of Councillors

22. (1) When exercising a power, duty or responsibility relating to the financial administration of the Band, a Councillor shall

(a) comply with this law, the Act, any other applicable law of the Band and any applicable standards;

(b) act honestly, in good faith and in the best interests of the Band;

(c) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and

(d) avoid conflicts of interest and comply with the requirements of the *Sliammon Indian Band Conflict of Interest Regulation*.

(2) If it has been determined by a court of competent jurisdiction that a Councillor has contravened this section, the Council shall post a public notice of the details of the determination for a period of not less than 31 days as soon as practicable after the contravention was determined.

Conduct of Officers, Employees, Contractors, etc

23. (1) Any

(a) officer, employee, contractor and agent of the Band,

(b) person acting under the delegated authority of the Council or the Band, or

(c) member of a committee of the Council or the Band who is not a Councillor,

who exercises a power, duty or responsibility relating to the financial administration of the Band shall,

(d) comply with this law, the Act, any other applicable Band law and any applicable standards;

(e) comply with all policies, procedures and directions of the Council; and

(f) avoid conflicts of interest and comply with any applicable requirements of the *Sliammon Indian Band Conflict of Interest Regulation* including required disclosure of potential conflicts of interest.

(2) The Council shall incorporate the relevant provision of this section into

(a) the terms of employment or appointment of every officer or employee of the Band;

(b) the terms of every contract of a contractor of the Band;

(c) the terms of appointment of every member of a committee who is not a Councillor; and

(d) the terms of appointment of every agent of the Band.

(3) If a person contravenes subsection (1), the following actions may be taken

(a) an officer or employee may be disciplined, up to and including dismissal, in accordance with the human resources manual;

(b) a contractor's contract may be terminated;

(c) the appointment of a member of a committee may be revoked; and

(d) the appointment of an agent may be revoked.

PART III FINANCIAL MANAGEMENT

Division One – Financial Plans and Annual Budgets

Fiscal Year

24. The fiscal year of the Band is April 1 to March 31 of the following year.

Multi-Year Financial Plan

25. No later than March 31 of each year, the Council shall approve a multi-year financial plan that

(a) has a planning period of five years comprised of the current fiscal year and the four succeeding fiscal years; and

(b) in respect of projected revenues, sets out separate amounts for income from taxes, fees and charges, transfers from Canada or a provincial or territorial government, grants and business operations, and proceeds from borrowing.

Content of Annual Budget

26. (1) The annual budget shall encompass all the operations for which the Band is responsible and shall identify
- (a) each anticipated source of revenue or receipts and estimate the amount of revenue or receipts from each of these sources;
 - (b) each anticipated category of expenditure or disbursements and estimate the amount of expenditure or disbursements for each category; and
 - (c) any anticipated annual and accumulated surpluses or deficits and the application of year end surpluses.
- (2) The revenue or receipts category of moneys derived from the Band's lands shall be shown separately in the annual budget from other revenues and shall include a sub-category for revenues or receipts from natural resources obtained from the Band's lands.

Budget and Planning Process Schedule

27. (1) On or before January 31 of each year, each director and manager shall prepare and submit, to the CAO and to the CFO, a preliminary budget for the operation of their program for the next fiscal year, in accordance with the policies and procedures established by the Band from time to time.
- (2) On or before February 15 of each year, the CFO shall prepare and submit to the FAC for review a draft annual budget and a draft multi-year financial plan for the next fiscal year.
- (3) On or before February 28 of each year, the FAC shall review
- (a) the draft annual budget and recommend an annual budget to the Council for approval,
 - (b) the draft multi-year financial plan and recommend a multi-year financial plan to the Council,
 - (c) comments submitted by members in accordance with section 31,
- and may recommend to Council revisions to the budget and financial plan.
- (4) On or before March 31 of each year, the Council shall review and approve the annual budget for the Band for the next fiscal year.
- (5) On or before June 15 of each year, the CFO shall prepare and submit to the FAC for review a draft amendment of the component of the annual budget respecting the Band's local revenue account.
- (6) On or before June 30 of each year, the FAC shall review the draft amendment of the component of the annual budget respecting the Band's local revenue account and recommend an amendment to the annual budget to the Council for approval.
- (7) No later than July 15 of each year, the Council shall approve the amendment of the component of the annual budget respecting the Band's local revenue account.

Additional Requirements for Budget Deficits

28. (1) The Council shall make all reasonable efforts to ensure that a draft annual budget contains no proposed deficits.

(2) If, after the Council has followed all established practices and procedures and has exercised due diligence, a draft annual budget contains a proposed deficit, the Council shall ensure that the multi-year financial plan of the Band demonstrates how and when this deficit will be addressed and how it will be serviced.

Amendments to Annual Budgets

29. (1) The annual budget of the Band shall not be changed without the approval of the Council.

Local Revenue Account Budget Requirements

30. Despite any other provisions of this law, any part of a budget relating to the local revenue account shall be prepared, approved and amended in accordance with applicable provisions of the Act and of the FNTC standards.

Informing and Involving Members of the Band

31. (1) The Council shall post a public notice of each Council meeting, in accordance with section 4, when each of the following is presented for approval:

- (a) the multi-year financial plan;
- (b) the annual budget;
- (c) an amendment to the annual budget, including budget deficits and extraordinary expenditures;
- (d) capital projects;
- (e) borrowing for new capital projects described in subsection 80(2); and
- (f) proposed amendments to this law.

(2) Members of the Band may attend that part of the Council meeting when the matters referred to in subsection (1) are being considered, and the Council shall consider any comments made by members in attendance before making a final decision.

(3) A notice provided under subsection (1) shall state whether and how members may be involved in the decision under consideration.

Division Two - Financial Institution Accounts

Financial Institution Accounts

32. (1) No account may be opened for the receipt and deposit of money of the Band unless the account is

- (a) in the name of the Band;
- (b) opened in a financial institution; and
- (c) authorized by the CAO and the CFO.

(2) Where moneys exist, the Band shall establish the following accounts in a financial institution

- (a) a general account for money from any sources other than those described in paragraphs (b) to (e);
- (b) a local revenue account for money from local revenues, which funds shall be kept separate from other moneys of the Band;
- (c) a trust account;
- (d) a land and resources account for money from revenues from the Band's lands; and
- (e) the capital trust funds described in section 33.

(3) The CAO and the CFO may establish any other accounts not referred to in subsection (2) as may be necessary and appropriate to manage the Band's financial assets.

Establishment of Capital Trust Funds

33. (1) The Band shall establish the three capital trust funds set out at subsections (2), (3) and (4), in accordance with section 32, for the purpose of ensuring that the principal portion of **all capital revenues** are held in perpetuity for future generations of Band members, which funds may be invested in accordance with this law.

(2) The Band's **Capital Fund** shall be established on the following terms and conditions:

- (a) all accumulated investment income shall remain in the fund for future investments approved by Council;
- (b) surplus funds shall only be invested in
 - (i) securities issued or guaranteed by Canada or a province, or
 - (ii) investments guaranteed by a bank, trust company or credit union;
- (c) any advance from this fund shall bear interest at a rate of 1% above the Bank of Canada's prime rate as of January 1 of the year in which the advance is made; and

(d) no withdrawal over \$500,000 shall be made from this fund unless it has been approved by a majority of members at a duly constituted general meeting.

(e) no withdrawal over \$1,000,000 shall be made from this fund unless it has been approved by a majority of members in a duly constituted referendum.

(3) The Band's **Infrastructure Fund** shall be established on the following terms and conditions:

(a) investments from the fund shall be made as follows:

(i) no withdrawal over \$500,000 shall be made from this fund for an infrastructure or tangible capital asset project unless it has been approved by a majority of members at a duly constituted general meeting,

(ii) no withdrawal over \$1,000,000 shall be made from this fund for an infrastructure or tangible capital asset project unless it has been approved by a majority of members in a duly constituted referendum.

(b) moneys in this fund shall not be used to reduce operating deficits or for debt reduction;

(c) any advance from this fund shall bear interest at a rate of 2% below the Bank of Canada's prime rate as of January 1 of the year in which the advance is made, and shall be repayable within 15 years;

(d) surplus funds shall only be invested in

(i) securities issued or guaranteed by Canada or a province, or

(ii) investments guaranteed by a bank, trust company or credit union; and

(e) all annual earnings from this fund shall be reinvested in this Capital Infrastructure Fund to ensure the availability of funding for future infrastructure development.

(4) The Band's **Economic Development Fund** shall be established on the following terms and conditions:

(a) moneys held in this fund shall only be used for:

(i) investments in share capital of private and public companies;

(ii) investments in conventional secured mortgage loans;

(iii) investments in joint ventures;

(iv) investments in secured business loans; or

- (v) any other business venture that the Council deems to be economically beneficial to the Band or related entities;
- (b) surplus funds shall only be invested in
 - (i) securities issued or guaranteed by Canada or a province, or
 - (ii) investments guaranteed by a bank, trust company or credit union;
- (c) no withdrawal over \$500,000 shall be made from this fund unless it has been approved by a majority of members at a duly constituted general meeting.
- (d) no withdrawal over \$1,000,000 shall be made from this fund unless it has been approved by a majority of members in a duly constituted referendum.
- (e) any advance from this fund shall bear interest at a rate of 1% above the Bank of Canada's prime rate as of January 1 of the year in which the advance is made and shall be repayable within 60 months or within a term approved by the Council; and
- (d) all annual earnings from this fund shall be reinvested in this Economic Development Fund to ensure the availability of funding for future economic development.
- (5) As soon as practicable, the Council shall, by resolution, allocate all capital revenues into one or more of the trust funds established under this section.

Accounts Management

- 34. (1) The CFO shall exercise reasonable due diligence to ensure the safekeeping of all money received by the Band.
- (2) The CFO shall ensure that all moneys received by the Band are deposited as soon as practicable into the appropriate accounts described in section 32.
- (3) The Council shall not authorize payment of money from an account described in section 32 unless the payment relates to the subject matter for which the account was established and is otherwise authorized or permitted under this law.

Division Three – Expenditures

Prohibited Expenditures

- 35. (1) Money or financial assets in a trust account shall not be used for a purpose other than that permitted under the terms of the trust.
- (2) Money in a local revenue account shall not be used for any purpose other than that permitted under a local revenue law.

No Expenditure Without Appropriation

36. (1) Subject to sections 37 and 38, money shall not be paid out of any account unless the expenditure is authorized under an appropriation.

(2) Subsection (1) does not apply to expenditures from a trust account where the expenditure is authorized under the terms of the trust.

Extraordinary Expenditures

37. Notwithstanding subsection 36(1), a quorum of the Council may authorize an initial expenditure of up to 5% of the annual budget for a reasonable purpose that was not and could not have been anticipated in the budget if the expenditure is not expressly prohibited by or under this law or another Band law, and, subject to further review, the Council may authorize a further expenditure, provided that the total expenditure under this section is no more than 10% of the annual budget.

Emergency Expenditures

38. (1) Notwithstanding subsection 36(1), a quorum of the Council may authorize an expenditure of up to 20% of the annual budget for an emergency purpose that was not anticipated in the budget if the expenditure is not expressly prohibited by or under this law or another Band law.

(2) As soon as practicable after making an expenditure under subsection (1), the Council shall review the expenditure and, where the Council deems it to be necessary and advisable, the Council may authorize a further expenditure for that emergency purpose.

Appropriations

39. (1) An amount that is appropriated in a budget shall not be expended for any purpose other than that described in the appropriation.

(2) The total amount expended by the Band in relation to an appropriation shall not exceed the amount specified in the budget for the Band for that appropriation.

Payments After Fiscal Year End

40. (1) Money appropriated in a budget for a fiscal year shall not be expended after the end of the fiscal year except to discharge a liability incurred in that fiscal year.

41. (1) No money may be paid out of any account without

(a) a requisition for each payment as required under this section; or

(b) the existence of an annual or ongoing contract for goods or services, the payments under which have been approved by the CFO or Council in accordance with the budget.

(2) No requisition may be made or given for a payment of money unless it is a lawful charge against an appropriation or an authorized use of money in a trust.

(3) No requisition may be made or given for payment of money that reduces the balance available in an appropriation or trust account so that it will not be sufficient to meet the commitments chargeable against it.

(4) A requisition may apply to one or more expenditures chargeable against one or more appropriations.

(5) A requisition shall identify the appropriation or trust account out of which payment is to be made and shall be signed by the applicable director.

(6) If a requisition is for the payment of performance of work or services or the supply of goods, the requisition shall include a statement by a director confirming that

(a) the work or services have been performed or the goods supplied, any conditions in an agreement respecting the work, services or goods have been met and the price charged or amount to be paid is in accordance with an agreement or, if not specified by agreement, is reasonable, or

(b) if payment is to be made before completion of the work or services, delivery of the goods or satisfaction of any conditions in an agreement, the payment is in accordance with the agreement.

(7) The Council shall authorize payment out of, or sign a requisition for payment from, a trust account, a local revenue account, any account described in section 32, and any appropriation.

Form of Payment

42. Payments by the Band may be made by impress fund, cheque, draft, electronic transfer or other similar instrument signed or authorized by any two authorized signatories.

Division Four – General Matters

Financial Management Practices and Controls

43. The Band shall, through the FPP, establish and follow sound financial management practices and controls.

Write Off and Extinguishment of Debts

44. (1) The CFO may write off or extinguish all or part of a debt or obligation of up to \$500 that is owed to the Band so long as it does not conflict with this law, any other applicable law or instrument, or the policies, procedures or directions of the Council.

(2) All or part of a debt or obligation in excess of \$500 that is owed to the Band may be written off or extinguished only

(a) if approved by the Council, or

(b) if done under the authority of a policy or direction of the Council.

Division Five – Borrowing

Limitations on Borrowing

45. (1) Except as specifically authorized in this law or in a local revenue law, the Band shall not borrow money or grant security.

(2) The Council may authorize

(a) a Councillor and the CAO or CFO; or

(b) a Councillor and the CFO

to borrow moneys or grant security in the name of the Band, as specifically approved by the Council, or in accordance with the policies, procedures or directions made by the Council.

Financial Agreements

46. If recommended by the FAC for the purpose of efficient management of the Band's financial assets, the Council may enter into agreements with financial institutions and related services agreements in the name of the Band.

Borrowing Member Requirements

47. (1) The Band may only secure long-term financing secured by property tax revenues from the FNFA as permitted under its local revenue laws and under the Act.

(2) Money borrowed under subsection (2) may only be used for the purposes permitted under the Act.

Borrowing for Repayment of Debts

48. The Band may not borrow money to repay or refinance a debt of the Band, unless the CFO prepares a report stating it is in the best interest of the band to do so.

Use of Borrowed Money

49. (1) Subject to this section and any local revenue law, money borrowed by the Band for a specific purpose shall not be used for any other purpose.

(2) All or some of the money borrowed for a specific purpose by the Band and not required to be used immediately for that purpose may be temporarily invested in accordance with subsection 55(1) until required for that purpose.

(3) If some of the money borrowed for a specific purpose is no longer required for that purpose, that money shall be applied to repay the debt from the borrowing as soon as is practicable.

Execution of Security Documents

50. (1) Subject to subsection (2), a security granted by the Band shall be signed by the Chief, the CAO and the CFO.

(2) A security granted by the Band in respect of local revenues shall be signed by

(a) a quorum of the Council;

(b) the CAO;

(c) the CFO; and

(d) the tax and lands manager.

Operational Controls

51. (1) The Council shall establish policies or procedures or give directions respecting the establishment and implementation of an effective system of internal controls that ensures the orderly and efficient conduct of the Band's operations.

(2) The Council shall review the auditor's opinion on the adequacy of the accounting procedures and internal control measures employed to preserve and protect the Band's financial assets and shall consider all of the auditor's recommendations.

Division Six - Risk Management

Risk-Management of For-Profit Activities

52. (1) Subject to subsections (2) and (3), the Band shall not

(a) carry on business as a proprietor;

(b) acquire an interest in a partnership as a general partner; or

(c) act as a trustee respecting property used for, or held in the course of, carrying on a business.

(2) The Band may carry on a business that

(a) is ancillary or incidental to the provision of programs or services or other functions of the governance of the Band; or

(b) derives income from the granting of a lease or license of or is in respect of

(i) an interest in, or natural resources on or under, the Band's lands or lands owned in fee simple by or in trust for the Band, or

(ii) any other property of the Band.

(3) The Band may carry on business activities for the primary purpose of profit if the Council determines that the business activities

(a) do not result in a material liability for the Band; or

(b) do not otherwise expose the Band's financial assets, property or resources to significant risk.

(4) The Council may impose terms and conditions on the conduct of any business activity permitted under this section in order to manage any risks associated with that activity.

Guarantees and Indemnities

53. (1) The Band shall not give a guarantee unless the Council has considered the report of the CFO under subsection (2).

(2) Before the Council authorizes a guarantee under subsection (1), the CFO shall, after consulting with and receiving recommendations from the FAC, prepare a report for Council identifying any risks associated with giving the guarantee and assessing the ability of the Band to honour the guarantee should it be required to do so.

(3) The Band shall not give an indemnity unless it is

(a) authorized under section 89;

(b) necessary and incidental to and included in another agreement to which the Band is a party; or

(c) in relation to a security granted by the Band that is authorized under this law or another law of the Band.

(4) Subject to a resolution described in section 89, the Council shall establish policies or procedures or give directions respecting guarantees and indemnities as follows:

(a) specifying circumstances under which an indemnity may be given without Council approval;

(b) designating the persons who may give an indemnity on behalf of the Band and specifying the maximum amount of any indemnity which may be given by them;

(c) specifying any terms or conditions under which a guarantee or indemnity may be given; and

(d) specifying the records to be maintained of all guarantees and indemnities given by the Band.

Authority to Invest

- 54.** (1) Except as specifically authorized in this law or another law of the Band, the Band shall not invest the Band's financial assets.
- (2) The Council may authorize the CFO to invest the Band's financial assets
- (a) as specifically approved by the Council; or
- (b) on the recommendation of the FAC and, where the FAC deems necessary, with the advice of a financial planner.

Approved Investments

- 55.** (1) Money in an account described in section 32 that is not immediately required for expenditures may be invested by the Band in one or more of the following:
- (a) securities issued or guaranteed by Canada, a province or the United States of America,
- (b) fixed deposits, notes, certificates and other short term paper of, or guaranteed by a financial institution including swaps in United States of America currency,
- (c) securities issued by the FNFA or by a local, municipal or regional government in Canada,
- (d) commercial paper issued by a Canadian company that is rated in the highest category by at least two recognized security-rating institutions,
- (e) any class of investments permitted under an Act of a province relating to trustees, or
- (f) any other investments or class of investments prescribed by a regulation under the Act.
- (2) If the Band has established an investment account under section 32, the Band may invest money in that account in
- (a) a company that is incorporated under the laws of Canada or of a province or territory and in which the Band is a shareholder;
- (b) a trust in which the Band is a beneficiary;
- (c) a limited partnership in which the Band is a partner; or
- (d) a member investment program described in section 56.
- (3) Despite any other provision in this section, government transfer funds and local revenue funds may only be invested in the following, all of which shall mature or be callable within five years, and 25% of which shall be callable within 90 days

- (a) securities issued or guaranteed by Canada or a province,
- (b) investments guaranteed by a bank, trust company, credit union or the FNFA, or
- (c) deposits in a bank or trust company in Canada or non-equity or membership shares in a credit union, in accordance with subsection 85(2) of the Act.

Investments in Member Activities

- 56.** (1) The Band may only make a loan to a member of the Band or to an entity in which a member of the Band has an interest if the loan is made from a program of the Band that has been approved by the Council and that meets the requirements of this section.
- (2) Before the Council establishes a program under this section, the CFO shall prepare a report for Council identifying any risks associated with the program and the costs of administering the program.
- (3) A program referred to in subsection (1) shall satisfy the following criteria:
- (a) the program shall be universally available to all members of the Band;
 - (b) the terms and conditions of the program shall be published and accessible to all members of the Band;
 - (c) all loans made from the program and all payments received from those loans shall be set out in an annual report that includes details about the amounts loaned, the purposes of the loans, the names of those receiving a loan and repayments of principal and interest on the loans; and
 - (d) all loans shall be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.
- (4) The Council shall make policies or procedures or give directions for the operation of the program referred to in this section.

Administration of Investments

- 57.** (1) The Council, on the recommendation of the FAC and in accordance with this law, may do all things necessary or advisable for the purpose of making, continuing, exchanging or disposing of the investment or loan.
- (2) The Council shall establish policies or procedures or give directions respecting the terms and conditions under which loans may be made including a requirement that all loans be recorded in a written agreement that provides for proper security for repayment and sets out the terms for repayment of principal and interest.

Risk Assessment and Management

58. (1) Annually, and more often if necessary, the FAC, with input from the CAO and the CFO, shall identify and assess

- (a) any significant risks to the Band's financial assets;
- (b) any significant risks to the Band's tangible capital assets as defined in Part IV;
- (c) any significant risks to the Band's operations; and
- (d) the adequacy of the Band's insurance coverage.

Insurance

59. (1) On recommendation of the FAC, the Council shall procure and maintain in force all insurance coverage that is appropriate and commensurate with the risks identified in section 58 and any other risks associated with any assets, property or resources under the ownership, care or control of the Band.

(2) The Council may purchase and maintain insurance for the benefit of a Councillor or an officer or their personal representatives against any liability arising from that person being or having been a Councillor or an officer.

Division Seven – Financial Reporting

Accounting Practices

60. All accounting practices of the Band shall comply with GAAP and directives from INAC.

Financial Activity Reports

61. At any time, the Council may pass a motion requesting a director to prepare, and provide to the Council at the next Council meeting, a financial activity report, in a form and with the content approved by the Council on the recommendation of the FAC.

Monthly Financial Information

62. No more than 45 days following the end of each month, the CFO shall

- (a) prepare financial information respecting the financial affairs of the Band, in the form and with the content approved by the Council on the recommendation of the FAC; and
- (b) provide the information in paragraph (a) to the Council and the FAC.

Quarterly Financial Statements

63. (1) No more than 45 days after the end of each quarter of the fiscal year, the CFO shall

(a) prepare financial statements for the Band for that quarter in the form and with the content approved by the Council on the recommendation of the FAC; and

(b) provide the information in paragraph (1)(a) to the Council and the FAC.

(2) The quarterly financial statements in subsection (1) shall be

(a) reviewed by the FAC; and

(b) reviewed and approved by the Council.

Annual Financial Statements

64. (1) At the end of each fiscal year the CFO shall prepare the annual financial statements of the Band for that fiscal year in accordance with GAAP and to a standard that is at least comparable to that generally accepted for governments in Canada.

(2) The annual financial statements shall include the following information

(a) the financial information of the Band and its related bodies for the fiscal year;

(b) the financial information for the local revenue account that is required to meet the FMB's Local Revenue Account Financial Reporting Standards; and

(c) the revenue categories for the Band's lands referred to in subsection 26(2).

(3) The annual financial statements shall include the following special purpose reports

(a) a report setting out all payments made to honour guarantees and indemnities for that fiscal year;

(b) a report setting out the information required in section 10;

(c) a report setting out all debts or obligations forgiven by the Band in accordance with section 44;

(d) a report setting out the information required in paragraph 56(3)(c);

(e) a report setting out moneys of the Band derived from the Band's lands, categorized and shown separately from other revenues and that includes a sub-category respecting revenues from natural resources obtained from the Band's lands; and

(f) any other report required under the Act or an agreement.

(4) Where possible, the CFO shall provide draft annual financial statements to the FAC for review within 60 days following the end of the fiscal year for which they were prepared.

(5) The FAC shall present draft annual financial statements to the Council for review within 90 days following the end of the fiscal year for which they were prepared.

Appointment of Auditor

65. (1) At an annual general meeting, the Council shall, by resolution, appoint an auditor to hold office for each fiscal year until the date the auditor's successor is appointed.

(2) The terms and conditions of the appointment of the auditor shall be set out in an engagement letter signed by the Council and shall include the auditor's obligation to confirm that the annual financial statements and the audit of them comply with this law, the Act, and FMB standards, and all other applicable laws.

(3) To be eligible for appointment as the auditor of the Band, an auditor shall

(a) be a member in good standing of

(i) the Canadian Institute of Chartered Accountants, or

(ii) an association of accountants or auditors incorporated under the laws of a province or territory, and

(b) be independent of the Band, its related bodies, Councillors, officers and members.

Audit Requirements

66. (1) The auditor shall audit the annual financial statements of the Band in accordance with GAAS and with any applicable INAC reporting requirements.

(2) The auditor shall conduct the audit of that part of the annual financial statements respecting the local revenue account in accordance with the FMB's Local Revenue Account Financial Reporting Standards and shall report on that account separately from other accounts.

(3) When conducting the audit, the auditor shall provide to the Council a management letter containing

(a) an audit opinion of the annual financial statements;

(b) an audit opinion or review comments on the special purpose reports referred to in subsection 64(3); and

(c) a general review and opinion of the adequacy of the accounting procedures and internal control measures employed to preserve and protect the Band's financial assets.

Auditor's Authority

67. (1) To conduct an audit of the annual financial statements of the Band, the auditor shall be given access to

(a) all records of the Band for examination or inspection and given copies of these records on request; and

(b) any Councillor, officer, employee, contractor or agent of the Band to ask any questions or request any information.

(2) On request of the auditor, every person referred to in paragraph (1)(b) shall

(a) make available all records referred to in paragraph (1)(a) that are in that person's care or control; and

(b) provide the auditor with full information and explanation about the affairs of the Band as necessary for the performance of the auditor's duties.

(3) The auditor shall be given notice and minutes of, and any other communication relating to

(a) every meeting of the FAC;

(b) every Council meeting where matters relating to the annual audit, including the approval of the annual financial statements, will be considered; and

(c) every meeting of members of the Band where the financial administration of the Band will be considered.

(4) Notice under subsection (3) shall be the same as that provided to a Councillor or member, as the case may be.

(5) Subject to subsection (6), the auditor may attend any meeting for which the auditor shall be given notice under this section and shall be given the opportunity to be heard at those meetings on any subject that concerns the auditor as auditor of the Band.

(6) The auditor may call a meeting of the FAC to discuss any subject that concerns the audit of the Band.

(7) The auditor may be excluded, by a recorded vote, from all or any part of a meeting of the FAC or the Council to which the auditor has been invited, if the subject matter relates to the retaining or dismissal of the auditor.

Review of Audited Annual Financial Statements

68. (1) The audited annual financial statements shall be provided to the FAC for its review and consideration no later than 105 days after the fiscal year end for which the statements were prepared.

(2) The Council shall review and approve the audited annual financial statements no later than July 29 of the fiscal year for which the statements were prepared.

Access to Annual Financial Statements

- 69.** (1) Before the annual financial statements may be published or distributed, they shall
- (a) be approved by the Council;
 - (b) be signed by
 - (i) a quorum of the Council, including the Chief of the Band,
 - (ii) the Chair of the FAC, and
 - (iii) the CFO; and
 - (c) include the auditor's audit report of the annual financial statements and the auditor's audit opinion or review comments of the special purpose reports referred to in section 64(3).
- (2) The audited annual financial statements and special purpose reports shall be
- (a) presented to the members of the Band at the annual general meeting; and
 - (b) available for inspection by members of the Band at the principal administrative offices of the Band during normal business hours.
- (3) In accordance with section 14(2) of the Act, the audit report relating to the local revenue account shall be available for inspection by
- (a) the members of the Band,
 - (b) any other persons who have an interest in, or the right to occupy, possess or use, the Band's reserve lands,
 - (c) the FNTC, the FMB, and the FNFA,
 - (d) the Minister responsible for INAC, and/or
 - (e) any other persons entitled to notice under section 14(2) of the Act, as amended or replaced from time to time,
- at the principal administrative offices of the Band during normal business hours.

Annual Report

- 70.** (1) Not later than 120 days after the end of each fiscal year, the Council shall prepare an annual report on the operations and financial performance of the Band for the previous fiscal year.
- (2) The annual report referred to in subsection (1) shall include the following:

- (a) a description of the services and operations of the Band;
 - (b) a progress report on any established financial objectives and performance measures of the Band; and
 - (c) the audited annual financial statements of the Band for the previous fiscal year including special purpose reports.
- (3) The annual report referred to in subsection (1) shall be
- (a) made available to members of the Band at the principal administrative offices of the Band; and
 - (b) provided to the FMB and the FNFA.

Division Eight – Information and Information Technology

Ownership of Records

- 71.** (1) All records of the Band that are produced by or on behalf of the Band or kept, used or received by any person on behalf of the Band are the property of the Band.
- (2) The Council shall establish policies or procedures or give directions to ensure that the records referred to in subsection (1) remain the property of the Band.

Operations Manual

- 72.** (1) The CAO shall prepare and maintain a current operations manual respecting every element of the Band's administrative systems, including any financial administration systems referred to in this law.
- (2) The operations manual under subsection (1) shall be made available to Councillors, members of the FAC and all other Council committees and officers and employees of the Band, subject to reasonable exceptions determined at the discretion of the CAO.
- (3) If any part of the operations manual under subsection (1) is relevant to the services being provided by a contractor or agent of the Band, that part of the operations manual may be made available to the contractor or agent.

Record Keeping and Maintenance

- 73.** (1) The CFO shall ensure that the Band prepares, maintains, stores and keeps secure all records of the Band that are required under this law or any other applicable law.
- (2) No record of the Band may be destroyed or disposed of except as permitted and in accordance with this law, any other applicable law, and the policies, procedures or directions of the Council.
- (3) Subject to subsection (4), all financial records shall be stored for at least seven years after they were created.

(4) The Band shall keep in its financial records an original copy of every set of audited annual financial statements.

(5) The Council shall establish policies and procedures or give directions respecting access of any person to the Band's records.

Local Revenue Account Records

74. The tax and lands manager shall prepare, maintain, store and keep secure a complete set of all records respecting the local revenue system of the Band, including all records referred to in section 5 of the *Local Revenue Management Implementation Regulations*.

Confidentiality of Information

75. (1) No person may be given access to records of the Band containing confidential information except as permitted in and in accordance with the policies, procedures and directions of the Council, [and all applicable laws.

(2) All persons who have access to records of the Band shall comply with all policies, procedures or directions of the Council respecting the confidentiality, control, use, copying or release of that record or information contained in those records.

Information Technology

76. The Council shall establish policies or procedures or give directions respecting information technology used by the Band in its operations to ensure the integrity of the Band's financial administration system and its database.

PART IV
CAPITAL PROJECTS

Council General Duties

77. The Council shall take reasonable steps to ensure that

(a) The Band's tangible capital assets are maintained in a good and safe condition and to the same standard as a prudent owner of those assets;

(b) the rehabilitation, maintenance or replacement of the Band's tangible capital assets is done in accordance with section 79; and

(c) capital projects for the construction of buildings or other improvements are financed, planned; managed and constructed in accordance with procedures and to standards that generally apply to the financing, planning and construction of public buildings and other improvements of organized communities in the region in which the majority of the Band's lands are located.

Reports on Capital Projects

78. At least quarterly, the CFO shall report to the FAC on the following subjects:

- (a) the status of a capital project including
 - (i) year to date borrowings, loans and payments,
 - (ii) a comparison of expenditures to date with the project budget,
 - (iii) a detailed description of any identified legal, financial, technical, scheduling or other problems, and
 - (iv) the manner in which a problem identified in subparagraph (iii) has been or will be addressed; and
- (b) steps taken to ensure compliance with section 81 for every capital project.

Life-Cycle of Tangible Capital Assets Management Program

79. (1) The CAO shall establish and keep current a register of all the Band's tangible capital assets that identifies each of these assets and includes the following information

- (a) location and purpose of the asset;
- (b) ownership and restrictions over ownership of the asset;
- (c) year of acquisition;
- (d) last inspection date of the asset;
- (e) expected life of the asset at the time of acquisition;
- (f) assessment of condition of the asset and its remaining useful life;
- (g) estimated residual value of the asset;
- (h) insurance coverage for the asset; and
- (i) any other information required by the Council.

(2) On or before December 31 of each year, the CAO shall arrange for the inspection and review of the state of each of the Band's tangible capital assets to establish or update information respecting the following matters, as applicable

- (a) its present use;
- (b) its condition and state of repair;

- (c) its suitability for its present use;
 - (d) its estimated remaining life;
 - (e) its estimated replacement cost;
 - (f) estimated dates and costs of its required future rehabilitation;
 - (g) a comparison of annual operating and maintenance costs, other than rehabilitation costs, for the last five fiscal years;
 - (h) maintenance records for all periods up to the date of inspection; and
 - (i) property and liability insurance covering the capital asset and its use or operation.
- (3) On or before December 31 of each year, the CFO shall prepare and provide to the FAC the following:
- (a) a schedule of annual routine maintenance, other than rehabilitation, for each of the Band's tangible capital assets for the next fiscal year;
 - (b) 5 and 10 year forecasts and, where applicable, 30 year forecasts of the estimated cost for maintenance, rehabilitation, or replacement of the Band's tangible capital assets;
 - (c) the proposed budget for rehabilitation of the Band's tangible capital assets for the next fiscal year, setting out
 - (i) each proposed rehabilitation project and its schedule,
 - (ii) the estimated cost, including contingencies of each proposed rehabilitation project, and
 - (iii) the estimated amounts and timing of money that is required to carry out each proposed rehabilitation project,
 - (d) the proposed budget for replacement of the Band's tangible capital assets for the next fiscal year setting out
 - (i) each proposed replacement project and its schedule,
 - (ii) the description of each asset to be replaced,
 - (iii) the estimated cost, including contingencies, of each proposed replacement project, and
 - (iv) the reasons why each proposed acquisition should be regarded as a replacement for the capital asset to be replaced.

Review by Finance and Audit Committee

80. (1) Each year, on or before the earlier of

(a) January 15, or

(b) INAC's deadline for submitting a capital plan or capital plan update,

the FAC shall review the information, schedules and budget prepared under section 79 for the following purposes

(c) to identify any means to reduce the costs of each rehabilitation or replacement project included in the proposed budgets;

(d) to know the effect that each rehabilitation or replacement project included in the proposed budgets will have on the annual operating costs and routine maintenance costs in future years; and

(e) to determine whether any significant savings might be effected by coordinating the scheduling of projects, deferring any projects or carrying out rehabilitation projects rather than replacement projects.

(2) On or before January 15 of each year, the FAC shall review, and make recommendations to the Council regarding, any plans for new construction of the Band's tangible capital assets including the proposed schedule, budget and impact on annual operating costs and routine maintenance costs in future years.

Capital Projects – Contracts and Tenders

81. (1) The FAC, with the approval of the Council, shall establish policies or procedures or give directions respecting the management of capital projects including the following

(a) project planning, design, engineering, safety and environmental requirements;

(b) project costing, budgeting, financing and approval;

(c) project and contractor bidding requirements;

(d) tender, contract form and contract acceptance;

(e) course of construction insurance;

(f) project performance guarantees and bonding;

(g) project control, including contract management; and

(h) holdbacks, work approvals, payment and audit procedures.

(2) All of the Band's capital projects shall be managed in accordance with the policies, procedures or directions referred to in subsection (1).

Capital Project Consultants

82. The CAO may retain the services of a professional engineer or other consultant to assist the CAO, the FAC and the Council to carry out their obligations under this Part.

PART V
MISCELLANEOUS

Compliance with Standards

83. (1) The Band shall comply with all applicable FMB standards.

(2) If the Council becomes aware that the Band is not complying with a FMB standard referred to in subsection (1), the Council shall as soon as practicable take any required actions to bring the Band into compliance with the FMB standard.

Land Management Obligations

84. (1) The Band shall comply with the Land Code and with *First Nations Land Management Act*.

(2) The Council shall establish and implement a policy that provides a method consistent with the requirements of the Land Code for being accountable to members of the Band regarding the management of the Band's lands and moneys earned from the Band's lands, in accordance with paragraph 6(1)(e) of the *First Nations Land Management Act*.

Reports of Breaches and Financial Irregularities, etc.

85. (1) Subject to subsections (2) and (3), if any person has reason to believe that

(a) an expenditure, liability or other transaction of the Band is not authorized by or under this law or another law of the Band,

(b) there has been a perceived theft, misappropriation or other misuse or irregularity in the funds, accounts, assets, liabilities and financial obligations of the Band,

(c) a provision of this law has been contravened, or

(d) a person has failed to comply with the *Sliammon Indian Band Conflict of Interest Regulation*,

the person may disclose the circumstances to the auditor, the Chief, the Chair of the FAC, the CFO or the CAO, whoever is most appropriate under the circumstances.

(2) If a Councillor becomes aware of any circumstances described under subsection (1), the Councillor shall report them to the auditor, the Chief, the Chair of the FAC, the CFO or the CAO, whoever is most appropriate under the circumstances.

(3) If an officer, employee, contractor or agent of the Band becomes aware of any circumstances described under subsection (1), the officer, employee, contractor or agent, as the case may be, shall report them to the auditor, the Chief, the Chair of the FAC, the CFO or the CAO, whoever is most appropriate under the circumstances.

Inquiry into Report

86. (1) If a report is made to under section 85, the person to whom the report is made shall inquire into the circumstances reported and report the findings to the Chair of the FAC as soon as practicable.

(2) The FAC may make a further inquiry into any findings reported to it under this section but, in any event, shall make a report to the Council respecting any circumstances reported to the FAC under this section including the Committee's recommendations, if any.

Protection of Parties

87. (1) All reasonable steps shall be taken by the CAO, the CFO, the auditor, the members of the FAC and the Council to ensure that the identity of the person who makes a report under section 85 is kept confidential to the extent practicable in all the circumstances.

(2) A person who makes a report in good faith under section 85 shall not be subjected to any form of reprisal by the Band or by a Councillor, officer, employee, contractor or agent of the Band as a result of making that report.

(3) The CAO and the Chair of the FAC shall take all necessary steps to ensure that subsection (2) is not contravened and shall report any contravention or suspected contravention to the Council.

(4) The Council shall establish policies or procedures or give directions for

(a) the recording and safeguarding of reports made under section 85 and any records prepared during the inquiry or investigation into those reports;

(b) the inquiry or investigation into reports made under section 85; and

(c) the fair treatment of a person against whom a report has been made under section 85.

Liability for Improper Use of Money

88. (1) A Councillor who votes for a resolution authorizing an amount to be expended, invested or used contrary to this law or to a local revenue law is personally liable to the Band for that amount.

(2) Subsection (1) does not apply if the Councillor relied on information provided by an officer or employee of the Band and the officer or employee was guilty of dishonesty, negligence or malicious or willful misconduct when providing the information.

(3) An amount owed to the Band under subsection (1) may be recovered for the Band by the Band, a member of the Band or a person who holds a security under a borrowing made by the Band.

(4) It is a good defence to any action brought against an officer or employee of the Band for unauthorized expenditure, investment or use of the Band's financial assets if it is proved that the officer or employee gave a written and signed warning to the Council that in his or her opinion, the expenditure, investment or use would be unlawful.

Indemnification Against Proceedings

89. (1) Subject to subsection (2), the Council may, by resolution, provide an indemnity to a named representative of the Band, a category of representatives of the Band or all representatives of the Band in accordance with the terms specified in the resolution.

(2) The Council may not pay a fine that is imposed as a result of the conviction of a representative of the Band for an offence, unless the offence is a strict or absolute liability offence.

Periodic Review of Law

90. (1) At least six months before the expiry of a borrowing member qualification certificate, the FAC, working with the CAO, the CFO and the tax and lands manager shall conduct a review of this law

(a) to determine if it facilitates effective and sound financial administration of the Band; and

(b) to identify any amendments to this law that may better serve this objective.

Provision of Law to FNFA

91. As soon as practical after the FMB approves this law, the Council shall provide a copy of this law to the FNFA.

Coming Into Force

92. This law comes into force on the day after it receives final approval by the FMB, pursuant to section 9 of the *First Nations Fiscal and Statistical Management Act*.

THIS LAW IS HEREBY DULY ENACTED by Council on the ____ day of _____, at Powell River, in the Province of British Columbia.

A quorum of Council consists of five (5) members of Council.

Chief Clint Williams

Councillor Robbi Wilson

Councillor Denise Smith

Councillor Gloria Francis

Councillor Dillon Johnson

Councillor Walter Paul

Councillor Bruce Point

Councillor Eugene Louie

Councillor David Louie