

**TSAWOUT FIRST NATION LANDS ADVISORY COMMITTEE**  
**POLICY No. 01-2007.**

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- WHEREAS** the Tsawout First Nation have inherent rights, customs, traditions and the inherent right to self-government as defined in the Douglas Treaty and reinforced through Section 35 of the *Constitution Act*;
- AND WHEREAS** Tsawout First Nation has jurisdiction and authority over Tsawout lands, resources and interests through Aboriginal title to their lands which is reinforced pursuant to the *Tsawout First Nation Land Code*, which came into force and effect on May, 29<sup>th</sup>, 2007;
- AND WHEREAS** Section 6 of the Land Code allows the Tsawout First Nation the authority to enact rules and procedures, pertaining to the establishment and function of the Land Advisory Committee and the management of their meetings;
- NOW THEREFORE** the Chief and Council of the Tsawout First Nation in open meeting assembled, enacts as follows, the Tsawout First Nation Land Advisory Committee Policy No.01-2007.

**1.0 DEFINITIONS**

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In this Policy the following definitions apply:

**Agent**

means the individual the applicant has authorized to act on their behalf, with respect to a land use application or referral. A written copy of this authorization must be sent in with any application;

**Applicant**

means the occupier of a parcel of land in respect of which an application has been made;

**Application**

means an application to:

- (a) Amend either the Community Plan, or zoning Policy,
- (b) To issue a permit or license,
- (c) To grant or renew a lease, or
- (d) Address any other land use matter.

under Part 6 of the *Tsawout First Nation Land Code* and for which a fee has been paid to the Tsawout First Nation;

**Band Member**

means an individual whose name appears or is entitled to appear on the Tsawout First Nation membership list

**Chief or Council Member**

means an individual elected as either Chief or Councilor for the Tsawout First Nation;

**Committee**

means the Land Advisory Committee, established by the Chief and Council, as outlined in the *Tsawout First Nation Land Code* and under 2.1 of this Policy;

**Conflict of Interest**

means when a committee member has a direct or indirect pecuniary interest in the matter or any other reason;

**Meeting**

means a regularly scheduled meeting or special meeting of the Committee;

**Public Facility**

means a school, fire hall, community hall, long house, band office, church hall or any other public assembly area;

**Special Meeting**

means a non-scheduled meeting of the Committee, that is set at the call of the Chair, by a two-thirds (2/3's) majority vote of the Committee Members, the Land Use Committee or the Council;

**Tsawout First Nation lands**

means lands contained within the boundaries of either East Saanich Indian Reserve No. 2 and Fulford Harbour Indian Reserve No. 5. This definition of Tsawout lands may be expanded as per the requirements of Section 5.2 of the *Tsawout First Nation Land Code*;

**Year**

means a twelve month period starting on January 1 of a year and ending on December 31 of the same year.

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**2.0 ESTABLISHMENT, APPOINTMENTS AND TERMS OF THE COMMITTEE**

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- 1.0 The Council hereby establishes the Lands Advisory Committee for that portion of the Tsawout First Nation Lands covered by the Land Code, as amended from time to time.
- 2.0 Appointment to the Lands Advisory Committee will be through the current family representative process that was in place with the adoption of the *Tsawout First Nation Land Code*. Families must decide upon who their family representative would be, as long as there is no immediate conflict of interest.
- 3.0 All members of the Committee must be members of the Tsawout First Nation. Except for the one (1) Council member that is appointed to the committee, no other committee member can be an elected official of the Tsawout Council.
- 4.0 Notwithstanding Section 23.2(c), of the *Tsawout First Nation Land Code*, employees of the Tsawout First Nation are eligible to be appointed as a member of the Committee. They may also attend any meeting or special meeting of the Committee in a resource or administrative support capacity.
- 5.0 Committee members will be remunerated at a rate of \$75.00 per ½ day meetings and \$150 for full day meetings. Rates are to be reviewed on an annual basis. They may be paid reasonable and necessary expenses that arise directly out of the performance of their duties, such as travel expenses to a meeting outside of the region and as approved by the Chief and Council.
- 6.0 The first term of the Committee must commence on July 15, 2007 and end on June 30, 2009. Each successive committee member must be appointed as outlined in Section 2.2 of this Policy.
- 7.0 As per section 23.9 of the *Tsawout First Nation Land Code*, a committee member's appointment to the Committee is declared vacant if any of the following conditions apply;
  - (a) if they are convicted of an offense that was prosecuted by way of indictment,
  - (b) if they are convicted of a corrupt practice in connection with an election, including accepting a bribe, dishonesty or wrongful conduct,
  - (c) if they are elected as a Council member. This issue does not apply to the Council member appointed to the committee by the Chief and Council,
  - (d) if they cease to be a Band member,
  - (e) if they fail to attend three (3) consecutive meetings of the Committee without leave of the Committee,
  - (f) if they die or becomes mentally incompetent, or
  - (g) if they resign in writing.

Notwithstanding the above, this also includes any committee member who fails to declare a conflict of interest prior to a question being called during a meeting or special meeting.

- 8.0 Any Tsawout staff member that is a committee member is entitled to sit on the committee. However they will be docked their day's pay from their salary or wage.
- 9.0 Subject to Section 23.10 of the *Tsawout First Nation Land Code*, if a Committee position is not filled after seeking the approval of the respective family member or is declared vacant during their term, the Chief and Council may ask an elder or the family head of the respective family group to submit a family member's name for the vacant Committee position.
- 10.0 For clarification purposes, if there is an inconsistency or conflict between this Committee Policy and the *Tsawout First Nation Land Code*, the Land Code will prevail to the extent of the inconsistency or conflict.

### **3.0 COMMITTEE MEETING PROCEDURES**

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- 1.0 The Committee must elect one (1) of its members as Chair, and another as Co-Chair to act in the absence of the Chair. The Chair and Co-Chair will hold these positions for a term of one (1) year or until their successors are elected. Such elections must take place at the first meeting of each new calendar year. The duties of the Chair and Co-Chair are outlined in Section 24 of the *Tsawout First Nation Land Code*.
- 2.0 The Secretary of the Committee may be an individual from the Tsawout Lands Department or the Committee. The Secretary must attend the meetings of the Committee, take minutes of the meetings, and perform other administrative support duties reasonably required for the efficient functioning of the Committee.
- 3.0 In the absence of the Chair or Co-Chair, the Committee must select from the members present a meeting or special meeting Chair, before commencing the meeting.
- 4.0 A majority of members of a Committee constitutes a quorum, for either a meeting or special meeting. If a quorum is not present within fifteen (15) minutes after the time appointed for a meeting or special meeting, the names of those present will be recorded and the meeting or special meeting will be adjourned.
- 5.0 A Committee may hold a special meeting at the call of the Committee Chair, by a two-thirds (2/3) vote of the committee members at a meeting, or as required by the Chief and Council.
- 6.0 All meetings and special meetings of the Committee must be held in a public facility and must be open to all Band members. No in-camera

meetings are allowed, unless there is a discussion on the conduct of a committee member.

- 7.0 The Tsawout First Nation Lands Department must send copies of the agendas/meeting packages to the committee members at least 5 working days prior to any meeting or special meeting. The delivery of the agendas and/or meeting packages may be by email, regular mail, and fax or by hand. Each committee member must advise the Secretary on his or her preferred method of delivery.
- 8.0 All Committee meetings and special meeting minutes must be kept and, on request, made available to the general band membership. No in-camera minutes will be available to the general band membership.
- 9.0 The Chair, in consultation with the Lands Department, is responsible for developing the agenda for each meeting or special meeting. If at the start of the meeting or special meeting the Committee members wish to amend the agenda, they may do so with a majority vote.
- 10.0 The Committee Chair may also post the meeting or special meeting notices on any community bulletins. The Chief and Council may advertise the date, time, location and issues to be considered at this meeting, in a local newspaper, if applicable.
- 11.0 If applicable the Committee Chair must arrange, through the Committee Secretary, for the contact name of the applicant or his or her agent at least seven (7) days prior to any meeting or special meeting of a Committee at which the applicant's application will be heard.
- 12.0 Any Band member, who wishes to be heard on any land use issue that is located on or could impact Tsawout First Nation lands, may do so by making a written request to the Committee Chair, through the Committee Secretary, at least three (3) days prior to the meeting or special meeting taking place. A Band member may also be heard at a meeting or special meeting by permission of a majority of the Committee members present. Each Band member speaking at the meeting or special meeting must keep his or her presentation to three (3) minutes or less. The Chair shall ensure that this time limit is followed and that proper order is maintained at every meeting and special meeting.
- 13.0 All matters brought before the Committee must be decided by a simple majority vote of all members of the Committee present at the meeting or special meeting.
- 14.0 In the case of a tie vote the question or motion will be tabled for further discussion. With respect to the tie vote all abstentions must be counted in the affirmative.
- 15.0 The Committee Chair must decide any point of procedure, which arises during any meeting or special meeting of the Committee.

- 16.0 Where any member of the Committee challenges any ruling of the Chair, the Chair's ruling shall immediately be put to a vote without a debate and the results of the vote must govern.
- 17.0 Where any member of the Committee considers that they are not entitled to participate in the discussion of a matter or to vote on a question in respect of that matter, the member must declare this and state the general nature of why the member considers this to be the case. After making this declaration the member must not take part in either the discussions or vote on any question in respect to this matter. The member must also leave the meeting or special meeting or part of the meeting or special meeting during which the matter is under consideration. The Committee Secretary must record the member's declaration, the reasons given and the time that the member departed from the meeting or the special meeting and if applicable the member's return. If after the meeting or special meeting the committee member is deemed to be in a conflict of interest position, based upon a recommendation from the committee, and has voted on the question, their vote will not be counted in the affirmative or the negative and the Council has the option to remove the committee member immediately and ask an elder from the Family group to submit names to replace the committee member.
- 18.0 The Committee may adopt rules for its procedure and may from time to time vary such rules by the affirmative vote of a majority of all members of the Committee present at a meeting. Procedural rules cannot be changed during a special meeting. Where no rule has been made then the requirements of Roberts Rules of Order and amendments thereto must apply to the meeting or special meeting.
- 19.0 Committee minutes must include the following:
- (a) Date, time and location of the meeting or special meeting
  - (b) Members of the Committee present and absent
  - (c) Other persons in an official capacity present for the duration of the meeting
  - (d) Items dealt with by the Committee - agenda additions/deletions
  - (e) Delegations who made representations to the Committee
  - (f) Discussions of the items dealt with by the Committee
  - (g) Recommendations of the Committee, which may include:
    - (i) Approval with reasons
    - (ii) Approval subject to conditions, and conditions to be stated
    - (iii) Refusal and reasons for the refusal
  - (h) The Mover and Secorder of a motion
  - (i) Committee's members roundtable discussions/notices

The Committee Chair and the Secretary of the Committee must sign the minutes. The meeting minutes must be completed within seven (7) days from the end of the meeting or special meeting.

#### **4.0 POWERS OF THE COMMITTEE**

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1.0 The Committee may make recommendations to the Chief and Council on any land use matter relating to Part 6 of the *Tsawout First Nation Land Code*, such as but not limited to the following:

- The development of or any amendment to any Community Plan;
- The development of or any amendment to any Zoning Policy;
- The issuance of any temporary commercial or industrial use permit;
- The issuance of a development permit or development variance permits or any other type of permit as required;
- The issuance of any license;
- The granting or renewal of access or disposition to Tsawout First Nation natural resources;
- The issuance of or renewal of any lease;
- The determination of fees and rents;
- Appointment procedures for the selection of the Land Committee members;
- Oversee all outstanding land matters and all matters in relation to Tsawout lands;
- Oversee the resolution of disputes, but not be a part of the dispute resolution process;
- The Treaty Land entitlement process as it relates to Tsawout lands;
- On any other issue related to the Treaty Implementation office; or
- Any other matter referred to or requested of the Committee by the Chief and Council.

Tsawout First Nations Lands Advisory Committee Policy No. 01-2007 is hereby endorsed and accepted by the Chief and Council at a meeting held October 10, 2007, as amended.

  
Chief Allan Claxton