

**WESTBANK FIRST NATION
ALLOTMENT LAW NO. 2006-03**

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WHEREAS Westbank First Nation has jurisdiction and authority over Westbank Lands, resources and Interests in Westbank Lands pursuant to the Westbank Self-Government Agreement effective April 1, 2005;

WHEREAS the Westbank First Nation Constitution provides that subject to any agreements pre-existing April 1st 2005 or any court order no Allotment shall be granted until a Westbank Law has been enacted establishing policy, procedure and criteria for granting of Allotments;

WHEREAS it is in the interests of the social, economic and community development of Westbank First Nation to continue to provide Allotments for Members;

AND WHEREAS Westbank First Nation wishes to enact a Westbank Law establishing the policy, procedure and criteria for granting of Allotments;

NOW THEREFORE Westbank First Nation enacts the following as a Westbank Law.

PART I DEFINITIONS AND INTERPRETATION

1. TITLE

1.1 This Law may be cited as the "*Westbank First Nation Allotment Law No. 2006-03*".

2. DEFINITIONS

2.1 In this Law, unless the context otherwise requires:

"**Adjudicator**" means an independent third party appointed by Westbank Council for the purpose of hearing matters identified for the Adjudicator under this Law;

"**Business interest**" means any financial involvement in a business;

"**Commission**" means the Westbank Allotment Commission established under this Law;

"**Commissioner**" means a person appointed to sit on the Commission under this Law;

"**Community Lands**" means any Westbank Lands in which no Allotment to a Member has been made;

“**Constitution**” means the Westbank First Nation Constitution;

“**Elder**” means a Member who is over the age of fifty-five (55);

“**Land Use Plan**” means a plan addressing housing, transportation, parks, economic development ,infrastructure, social , cultural, environment and other needs in the use and development of Westbank Lands and for greater certainty until passage of a Westbank Law adopting a Land Use Plan includes the Physical Development Plan adopted by Resolution of Council;

“**Proposal for Allotment of Community Lands for Raising Revenue**” means a document prepared in accordance with section 30.1 of this Law;

“**Province**” means British Columbia;

“**Quorum**” means a minimum of three (3) Commissioners provided that in the event of a vacancy on the Commission means during the period of the vacancy a majority of the remaining Commissioners;

“**Serviced**” means lands that are accessible via a local road as defined under the *WFN Subdivision, Development and Servicing Law No. 2005-15* and are either connected to the Westbank sanitary sewer system, have a contained sewer collection system or a septic field system meeting all the standards and approved under applicable law;

“**Westbank**” means Westbank First Nation;

“**Westbank First Nation**” or “**WFN**” means the body of people for whose use and benefit in common Westbank Lands have been set apart by Her Majesty the Queen in right of Canada;

“**Westbank Lands**” means:

- (a) the following Westbank Indian Reserves:
 - (a) Mission Creek Indian Reserve No. 8
 - (ii) Tsinstikeptum Indian Reserve No. 9
 - (iii) Tsinstikeptum Indian Reserve No.10
 - (iv) Medicine Hill Indian Reserve No. 11
 - (v) Medicine Creek Indian Reserve No. 12; and
 - (b) lands set apart by Her Majesty the Queen in right of Canada in the future as lands reserved for the use and benefit of Westbank, within the meaning of subsection 91(24) of the *Constitution Act, 1867*.
- 2.2 Unless otherwise provided in this Law, words, expressions and rules of construction used in this Law have the same meaning as in the *Westbank First Nation Constitution*.

PART II: GRANTING OF ALLOTMENTS

3. GENERAL

- 3.1 An Allotment of Community Lands may only be granted in accordance with this Law.
- 3.2 An Allotment of Community Lands may only be granted to a Member.
- 3.3 Subject to sections 3.1 and 3.2 an Allotment in Community Lands may be granted for the purposes set out in this Part.
- 3.4 For greater certainty, nothing in this Law prevents the granting of an Allotment, consistent with this Law , in a strata title.
- 3.5 Unless specifically excluded by the instrument granting an Allotment of Westbank Lands, the Allotment includes all Natural Resources on or under that land to the extent they are under Westbank jurisdiction.
- 3.6 The use and development of Natural Resources on or under Westbank Lands is subject to the *Westbank First Nation Constitution*, Westbank Law and other applicable laws.

4. CORRECTION OF SURVEY ERRORS

- 4.1 Where a survey prepared in accordance with the *Canada Lands Surveys Act* identifies that Westbank Lands registered as Community Lands are included in a previous Allotment, the new survey shall be registered and the portion of Community Lands that should have been included in the original Allotment are deemed to have been allotted to the Member holding the Certificate of Possession for the Allotment.
- 4.2 Where an Allotment has been granted and a survey prepared in accordance with the *Canada Lands Surveys Act* identifies that the Allotment included Community Lands that should not have been allotted, the new survey shall be registered and the portion of the allotted lands that should not have been allotted shall be deemed to be Community Lands.
- 4.3 Where section 4.1 or 4.2 applies, if required Council shall by resolution within thirty (30) days of the survey plan being registered:
 - (a) cancel the Allotment or Allotments affected by the survey;
 - (b) grant an new Allotment or Allotments reflecting the boundaries identified in the survey and issue a replacement Certificate or Certificates of Possession; and
 - (c) direct registration of the new Allotment or Allotments.

5. EXCHANGE OF LANDS

- 5.1 An Allotment of Community Lands in exchange for allotted lands held by a Member, may be made by Resolution of Council, where it is in the best interests of Westbank provided the following conditions are satisfied:
- (a) the lands being exchanged are of approximate equal value or size;
 - (b) Council has made full disclosure to the Membership of the purpose and all the circumstances surrounding the proposed exchange; and
 - (c) the exchange is approved by a Majority of Electors present at a Special Membership Meeting called to consider the proposed exchange.
- 5.2 Notice of the Special Membership Meeting under subsection 5.1 (c) shall be given to the Membership at least twenty (20) days before the meeting and shall include:
- (a) a summary of the purpose and terms of the proposed exchange;
 - (b) a statement that there will be a vote by secret ballot of the Electors present at the Special Membership Meeting to make a decision on whether or not to approve the exchange; and
 - (c) the date, time and place of the Special Membership Meeting specifying the time period during which voting will take place.
- 5.3 Notice of the Special Membership Meeting shall be provided to the Membership by:
- (a) publication in the Westbank newsletter mailed to Electors, or by separate written notice delivered or mailed to Electors; and
 - (b) posting of the notice in a public area of the Westbank administration building.
- 5.4 At the Special Membership Meeting, Council or its designate shall explain the purpose and provisions of the proposed exchange and Members may ask questions and provide comments.
- 5.5 Upon completion of the discussion, the Electors, including Council members, present at the Special Membership Meeting shall vote by secret ballot on whether or not to approve the proposed exchange.

- 5.6 The exchange described in section 5.1 shall be deemed authorized if a Majority of Electors present at the Special Membership Meeting vote in favour of granting the proposed exchange.
- 5.7 The decision at the Special Membership Meeting shall be recorded in the minutes and shall be evidence of the approval for the granting of the Allotment.

6. RECONFIGURATION OF BOUNDARIES

- 6.1 An Allotment of Community Lands in exchange for adjacent lands held under an Allotment by a Member, may be made by Resolution of Council, where it is in the best interests of Westbank provided the following conditions are satisfied:
 - (a) the lands being exchanged are of approximate equal value or size; and
 - (b) the agenda for the Council meeting considering the proposed exchange identifies the proposed exchange.
- 6.2 The decision of Council at the Council meeting shall be recorded in the Minutes and shall be evidence of the approval for granting of the Allotment proposed in the exchange.

7. ALLOTMENT PURSUANT TO AN AGREEMENT

- 7.1 An Allotment of Community Lands may be made by Resolution of Council pursuant to an agreement with a Member entered into before or after enactment of this Law provided that the following conditions are met:
 - (a) Council has made full disclosure to the Membership of the terms of the agreement;
 - (b) a Special Membership Meeting was held at which time a majority of the Electors present voted to approve the agreement, including the proposed Allotment contained therein; and
 - (c) the Member has performed any obligations that he or she was to perform in order to receive the Allotment.
- 7.2 Notice of the Special Membership Meeting under 7.1 (b) shall be, given to the Membership at least twenty (20) days before the meeting and shall include:
 - (a) a summary of the terms of the agreement;

- (b) a statement that there will be a vote by secret ballot of the Electors present at the Special Membership Meeting to make a decision on whether or not to approve the agreement; and
 - (c) the date, time and place of the Special Membership Meeting specifying the time period during which voting will take place.
- 7.3 Notice of the Special Membership Meeting shall be provided to the Membership by:
 - (a) publication of the Westbank newsletter mailed to Electors, or by separate written notice delivered or mailed to Electors; and
 - (b) posting of the notice in a public area of the Westbank administration building.
- 7.4 At the Special Membership Meeting, Council or its designate shall explain the purpose and provisions of the agreement and Members may ask questions and provide comments.
- 7.5 Upon completion of the discussion, the Electors, including Council members, present at the Special Membership Meeting have voted, or shall vote, by secret ballot on whether or not to approve the agreement.
- 7.6 The agreement described in section 7.1 shall be deemed approved if a majority of Electors present at the Special Membership Meeting voted, or vote in favour of the of the agreement.
- 7.7 The decision at the Special Membership Meeting shall be recorded in the minutes and shall be evidence of the approval for the granting of the Allotment.

8. TRANSFER OF ALLOTMENT BY MEMBER FOR HOUSING, GUARANTEE OR OTHER PURPOSES

- 8.1 Where, under a written agreement between Westbank and a Member, an Allotment is cancelled for the purpose of allowing a Member to participate in a housing program authorized by Westbank or to allow the Member to benefit from a guarantee provided by Westbank or for other purposes, Council shall by Resolution grant a new Allotment of the subject lands when all terms of the written agreement have been satisfied provided that the Member is not in breach of any of the terms of the agreement.

9. ALLOTMENT AFTER A FORECLOSURE

- 9.1 Where under a Mortgage between a Member and Westbank there is a default by the Member and where as a result of Westbank exercising its right of foreclosure under the Mortgage the Member's Allotment is cancelled and the Member has no further interest in the lands, Westbank may sell the subject lands for a price at least equal to the amount owing under the Mortgage and any costs and expenses incurred in the foreclosure and sale proceedings and Council shall by Resolution grant an Allotment of the subject lands to the purchasing Member.

10. ALLOTMENT OF COMMUNITY LANDS FOR RAISING REVENUE

- 10.1 Allotments for the purpose of raising revenue for Westbank may only be made where the Proposed Allotment of Community Lands for Raising Revenue is approved under Part IV of this Law.
- 10.2 Community Lands that are subject to a written agreement described in section 8 or 11.3 shall not be available for Allotment under this section.

11. HOUSING ALLOTMENTS

- 11.1 Council may by Resolution identify Community Lands that are to be made available for housing Allotment purposes under this Law and may set terms and conditions that are not inconsistent with this Law.
- 11.2 Community Lands may be allotted for housing purposes on the following conditions:
- (a) the subject Community Lands are shown on the Land Use Plan as designated residential;
 - (b) Council has identified the subject lands as being available for Member housing;
 - (c) the subject lands are surveyed;
 - (d) the subject lands are capable of being Serviced and are no greater in size than permitted for a lot designated under the Land Use Plan for single family low density residential purposes; and
 - (e) except with respect to Allotments under sections 7, 8, 9, 10 or 11.3, the Allotment has been approved by the Commission.

- 11.3 Notwithstanding section 7, where a written agreement between Westbank and a Member entered into prior to the date this Law comes into force provides, under a housing program authorized by Westbank, for an Allotment of Community Lands subject to the Member fulfilling financial and other obligations, Council shall by Resolution grant an Allotment when all terms of the Agreement have been satisfied provided that the Member is not in breach of the agreement.

12. REGISTRATION OF ALLOTMENTS

- 12.1 Where under this Law an Allotment is granted or required to be granted the interest shall be registered in accordance with the Constitution.

PART III WESTBANK ALLOTMENT COMMISSION

13. ESTABLISHMENT OF COMMISSION

- 13.1 The Commission is hereby established to:
- (a) evaluate and make decisions on applications for housing Allotments;
 - (b) administer the Allotment of Community Lands that has been authorized in accordance with Part IV of this Law;
 - (c) establish policies and procedures for operation of the Commission and the carrying out of its duties that are not inconsistent with this Law and the *Westbank First Nation Constitution*;
 - (d) develop and conduct programs of public information and education relating to the Commission's roles and responsibilities with respect to the granting of housing Allotments; and
 - (e) carry out such other duties and responsibilities as may be assigned to the Commission under Westbank Law.

14. COMPOSITION OF COMMISSION

- 14.1 The Commission shall be composed of five Commissioners who are Members and qualify under section 15.4 of this Law, appointed by Resolution of Council as follows:

- (a) four Members who are not members of Council, at least one of whom is an Elder; and
- (b) one member of Council.

14.2 In the Resolution of Council appointing members to the Commission under section 14.1, Council shall appoint one additional Council member to act as an alternate to the Council member appointed under section 14.1 in the event that the appointed Council member is unable to attend a meeting. The alternate Council member shall have all the powers of the member of Council appointed under section 14.1 when acting on their behalf.

15. APPOINTMENT PROCESS

15.1 Prior to making appointments to the Commission, Council shall invite applications from Members interested in being appointed to the Commission.

15.2 The invitation to apply for appointment to the Commission shall be posted in a public area of the Westbank administration building and other conspicuous places on Westbank Lands.

15.3 The notice under section 15.2 shall specify:

- (a) the qualifications for appointment to the Commission; and
- (b) the time within which applications must be submitted to Council.

15.4 To qualify for appointment a person must:

- (a) be a Member;
- (b) be nineteen years of age or older;
- (c) possess good character, credibility and reputation;
- (d) except for the member of Council or alternate member of Council appointed pursuant to section 14.1 (b) , must not be a member of Council;
- (e) not be a Westbank staff member employed in the housing or lands department;
- (f) provide a sworn declaration that they have not have been convicted of an indictable criminal offence in Canada or a felony in the United States within the past ten years, provided that conviction of an offence relating to the assertion or exercise of aboriginal rights or title shall be deemed not to be a conviction for the purposes of this subsection;

- (g) not have been removed from office pursuant to section 27 of this Law within the past five years; and
- (h) not be in arrears to Westbank with respect to any loans, debts or other financial obligations owed by the Member to Westbank.

16. TERM

- 16.1 Each Commissioner will hold office for a term of three years subject to the provision that the term for the member of Council appointed pursuant to section 14.1 (b) shall not be longer than their term on Council.
- 16.2 A Commissioner may be re-appointed to office by Resolution of Council.

17. OATH OF OFFICE

- 17.1 Each Commissioner before entering upon his or her duties will take and subscribe to the oath of office in the form attached to this Law as Schedule A before either a justice of the peace, notary public or duly appointed commissioner for taking oaths.

18. HONORARIUMS

- 18.1 Commissioners other than the member of Council will receive an honorarium in an amount determined by Council.
- 18.2 Any honorarium determined by Resolution of Council shall be set for the term of the Commissioners and can not be changed during the term be changed, except upon the decision of an Adjudicator.
- 18.3 Prior to any hearing to consider changes to the honorarium paid to Commissioners, the Adjudicator shall establish rules for its procedure, which rules shall, at a minimum, provide:
 - (a) notice to Council and Commissioners of the hearing date; and
 - (b) an opportunity for Council and Commissioners to be heard.
- 18.4 After consideration of written or oral submissions concerning any amendment to the honorarium the Adjudicator shall determine the honorarium to be paid to Commissioners.
- 18.5 The decision of the Adjudicator shall be in writing and a copy shall be provided to Council and Commissioners.
- 18.6 The decision of the Adjudicator is final and binding.

19. CHAIRPERSON

- 19.1 The member of Council appointed to the Commission shall act as Chairperson for the first meeting of the Commission and will perform all the functions of Chairperson at the first meeting.
- 19.2 The Chairperson will be elected for a term of one year by the Commissioners from among themselves at their first meeting and thereafter at the first meeting after the Chairperson has served their term.
- 19.3 The Chairperson is eligible for re-election.
- 19.4 The Chairperson shall be responsible for organizing, calling and presiding at all meetings of the Commission shall perform such other duties as may be assigned to the Chairperson by the Commission.
- 19.5 In the absence of the Chairperson the Commission shall designate another Commissioner to act as Chairperson.

20. MEETINGS

- 20.1 The first meeting of the Commission after all the Commissioners have been appointed shall be set by Resolution of Council and held within forty five (45) days of the appointment of the full Commission.
- 20.2 After the first meeting the Commission shall meet as required to carry out its duties under this Law.
- 20.3 The Commission shall meet on Westbank Lands.
- 20.4 The Chairperson shall give notice to Commissioners at least seven (7) business days before the date of a meeting specifying the place, day and hour of the meeting.
- 20.5 Notice of the meeting may be given to a Commissioner either personally, by telephone, facsimile or e-mail at the telephone number or e-mail address provided by the Commissioner.
- 20.6 A Commissioner shall notify the Chairperson of any anticipated absence and the reasons for such absence. Where notice is given to the Chairperson the Chairperson shall inform other members of Commission of the absence and the reasons.
- 20.7 A Commissioner may participate in a meeting by means of telephone or other communication facilities which permit all persons in the meeting to hear each other and in such case shall be deemed to be present at the meeting.

- 20.8 Subject to section 21.11, the Commission meetings shall be open to Members.
- 20.9 The Commission may permit persons other than Members to attend Commission meetings as observers and such persons may only address the meeting if their matter is on the agenda or if they receive permission from the Chairperson.
- 20.10 The Chairperson may request that a person, other than a member of the Commission, leave a Commission meeting where the Chairperson deems their conduct to be improper.
- 20.11 Commission members present may, by vote, determine that all or part of a Commission meeting is closed to persons other than members of the Commission and any recording secretary if the subject matter relates to or is one or more of the following:
- (a) law enforcement, if the Commission considers that disclosure could reasonably be expected to harm the conduct of an investigation under or enforcement of law;
 - (b) litigation or potential litigation;
 - (c) the receipt of advice that is subject to solicitor/client privilege, including communications necessary for that purpose;
 - (d) personal information about an identifiable individual where the Commission considers that release of such information would be inappropriate;
 - (e) information as prohibited, or information that were presented in a document would be prohibited, from disclosure under applicable law; and
 - (f) consideration of whether a Commission meeting should be closed under this provision.
- 20.12 If all or part of a meeting is closed, the Commission may allow a representative or employee of Westbank to attend to provide assistance or information as it considers appropriate.
- 20.13 If all or part of a Commission meeting is closed, the Commission may allow a person other than a representative or employee of Westbank First Nation to attend if the Commission considers this necessary and:
- (a) the person already has knowledge of a confidential information or is a lawyer attending to provide legal advice in relation to the matter; or
 - (b) the Commission for other reasons deems the person's attendance necessary.

- 20.14 Westbank shall appoint a person who is not a member of the Commission to act as secretary to the Commission, and the secretary shall:
- (a) take attendance of Commission members present at meetings;
 - (b) record minutes of meetings;
 - (c) record decisions and votes at meetings; and
 - (d) perform such other duties, consistent with this Law, as may be assigned to the secretary by the Commission.
- 20.15 The secretary to the Commission shall provide copies of all approved minutes and records of decisions to members of the Commission in a timely manner.
- 20.16 All approved minutes and records of decisions of the Commission shall be retained by the Commission at the Westbank administration building and except with respect to matters in any closed part of a Commission meeting, copies may be obtained by Members upon payment of a reasonable copying fee.
- 20.17 The Commission may, subject to this Law, establish rules for its procedure at meetings and no rule made by the Commission invalidates a prior act of the Commission that would have been valid if that rule had not been made.

21. QUORUM

- 21.1 Quorum for a meeting of the Commission shall be four Commissioners provided that where a quorum cannot be established because of conflict of interest provisions in this Law, the matter shall be adjourned to the next meeting or such future meeting where a quorum can be established.
- 21.2 If a quorum can never be established because of conflict of interest provisions in this Law or a vacancy, quorum shall be a majority of Commissioners entitled to participate in the discussion and vote on the question.
- 21.3 The Chairperson shall be included in counting quorum.

22. VOTING

- 22.1 All matters before the Commission for decision shall be decided by a majority vote of Commissioners participating in the vote.
- 22.2 The Chairperson shall be entitled to vote.

22.3 Unless a secret vote is requested and approved by the Commission, all voting shall be by a show of hands indicating a "Yes" vote or a "No" vote. No abstentions are permitted on a vote.

22.4 The results of a vote shall be recorded in the minutes of the meeting.

23. CONFLICT OF INTEREST

23.1 A conflict of interest arises in any situation where a member or a person in their immediate family has a personal or business interest in the matter under consideration.

23.2 A Commissioner who has a conflict of interest will, as soon as possible, disclose the nature and extent of their conflict to the Chairperson who shall report the conflict to the remaining Commissioners.

23.3 Where a conflict of interest exists, the Commissioner affected shall leave the meeting where the matter is being considered and will not be counted in determining quorum nor participate in discussion nor vote on the matter under consideration.

24. CONFIDENTIALITY

24.1 Subject to section 24.2, Commissioners shall not release information received by them in their work with the Commission or information relating to the deliberations proceedings or other matters of the Commission unless:

(a) the information is public under Westbank Law or other applicable laws; or

(b) the information is information that the Commission, by vote of members at a meeting, decides to release.

24.2 Information relating to deliberations or proceedings of the Commission may be provided to the Adjudicator considering an application for removal of a Commissioner.

25. VACANCIES

25.1 A Commissioner will continue to hold office for their term or until the position becomes vacant pursuant to section 26.2.

25.2 A position on the Commission becomes vacant where a member:

(a) dies;

- (b) resigns by sending notice in writing to the Chairperson, a copy of which shall be provided by the Chairperson to each Commissioner;
- (c) is convicted of an indictable criminal offence in Canada or a felony in the United States, provided that conviction of an offence relating to the assertion or exercise of aboriginal rights or title shall be deemed not to be a conviction for the purposes of this subsection;
- (d) where a member of the Commission is no longer a Member;
- (e) fails to attend three consecutive meetings without a valid reason as determined by the remaining Commissioners;
- (f) fails or refuses to sign the oath of office within fifteen (15) days of their appointment;
- (g) in the case of the Commissioners who are members of Council, cease to be a member of Council;
- (h) in the case of a Commissioner who is not a member of Council, is elected to Council or becomes a Westbank staff member employed in the housing or lands department; or
- (i) is removed from office in accordance with the provisions of this Law.

25.3 The Chairperson of the Commission shall advise Council as soon as reasonably possible upon a vacancy occurring.

25.4 Vacancies on the Commission shall be filled in accordance with section 27 of this Law.

26. REMOVAL FROM OFFICE

26.1 A Commissioner may be removed from office because they:

- (a) engaged in dishonourable or questionable conduct which cast doubt on that person's personal or professional integrity or competence or reflects adversely on the integrity of the Commission;
- (b) breached the confidentiality provisions in this Law; or
- (c) is negligent in their duties and responsibilities to the Commission.

26.2 Proceedings to remove a Commissioner may be commenced by a written petition signed by another Commissioner setting out grounds for removal.

- 26.3 A petition seeking removal of a Commissioner shall be delivered to the Westbank Director of Operations.
- 26.4 Where a Commissioner is under review as a result of a petition, they will be excused from their duties and responsibilities to the Commission pending a determination of the matter.
- 26.5 Upon receipt of a petition the Director of Operations shall schedule a hearing of the Adjudicator to consider whether the Commissioner should be removed from office.
- 26.6 Notice of the time, place and date of the hearing of the Adjudicator shall be provided to the Commissioner whose removal is sought, the Commissioner signing the Commission and the Adjudicator.
- 26.7 The Adjudicator may, subject to the provisions of this Law, make rules for conduct of hearings.
- 26.8 If the Commissioner whose removal is sought or the Commissioner who signed the petition provides the Adjudicator with at least twenty-four (24) hours' written notice of their inability to attend the hearing because of a valid reason set out in the notice, the hearing shall be adjourned.
- 26.9 If the Commissioner whose removal is sought or the Commissioner who signed the petition failed to attend the hearing without providing notice or a valid reason as required under section 26.8, the hearing may take place in their absence.
- 26.10 The Adjudicator will first hear from the Commissioner who signed the petition for removal. The Commissioner whose removal is sought has the right to question the Commissioner giving evidence.
- 26.11 After the Adjudicator has heard evidence from the Commissioner signing the petition seeking removal, the Commissioner whose removal is sought may give evidence in reply. The Commissioner signing their petition for removal has the right to question the member giving evidence in reply.
- 26.12 The Adjudicator may question any person giving evidence at the hearing.
- 26.13 The Adjudicator may adjourn any hearing in order to make a decision.
- 26.14 After consideration of all the evidence and any documents submitted, the Adjudicator shall:
 - (a) dismiss the petition; or
 - (b) remove the member from office and declare a vacancy.

26.15 The Adjudicator shall provide a copy of the decision to the member whose removal is sought and to the Chairperson. Upon receipt of the decision, the Chairperson shall distribute copies of the decision to the remaining Commissioners.

27. FILLING A VACANCY

27.1 Where a vacancy occurs, a replacement member who qualifies under section 16.4 shall be appointed by Resolution of Council to fulfil the term of the original appointment within sixty (60) days of the vacancy.

27.2 A vacancy in the Commission will not impair the right of the remainder to act, provided there is a quorum remaining.

28. ANNUAL REPORT

28.1 The Commission shall prepare an annual report of its activities which shall generally describe the activities of Commission.

28.2 The Annual Report shall be submitted to Council within sixty (60) days of the end of each calendar year.

PART IV: PROCEDURES FOR GRANTING OF ALLOTMENTS

29. ALLOTMENT OF COMMUNITY LANDS FOR RAISING REVENUE

29.1 Where Council determines it is in the best interests of Westbank to grant an Allotment in Community Lands for the purposes of raising revenue it shall prepare a Proposal for Allotment of Community Lands for Raising Revenue which shall set out:

- (a) the location of the Community Lands available for Allotment;
- (b) any terms, conditions and exceptions in the Allotment to be granted;
- (c) the permitted uses under the Land Use Plan for the Community Lands to be allotted;
- (d) the minimum Allotment price;

- (e) the process for the proposed sale; and
 - (e) such other information as Council deems necessary.
- 29.2 Prior to the offering Community Lands for Allotment under section 10 the Proposal for Allotment of Community Lands for Raising Revenue shall be approved by referendum held under Part XII of the Constitution.
- 29.3 Prior to holding a referendum under section 29.2, Council shall schedule a Special Membership Meeting to provide information on the Proposal for Allotment of Community Lands for Raising Revenue.
- 29.4 Notice of the Special Membership Meeting shall be given to the Membership at least twenty (20) days before the meeting and shall include:
 - (a) copy of the Proposal for Allotment of Community Lands for Raising Revenue; and
 - (b) the date, time and place of the Special Membership Meeting.
- 29.5 Notice of the Special Membership Meeting shall be provided to the Membership by:
 - (a) publication in the Westbank newsletter mailed to Electors, or by separate written notice delivered or mailed to Electors; and
 - (b) posting of the notice in a public area of the Westbank administration building.
- 29.6 At the Special Membership Meeting, Council or its designate shall explain the purpose and terms of the Proposal for Allotment of Community Lands for Raising Revenue and Members may ask questions and provide comments.
- 29.7 After the holding of the Special Membership Meeting, Council shall set a date on which the referendum shall be held.
- 29.8 The Proposal for the Allotment of Community Lands for Raising Revenue shall be deemed authorized if approved by the referendum vote.
- 29.9 The results of the referendum held under section 29.2 shall be evidence of approval for the Proposal for the Allotment of Community Lands for Revenue Purposes or rejection of the Proposal for the Allotment of Community Lands for Revenue Purposes.
- 29.10 Where the referendum vote approves the Proposal for the Allotment of Community Lands for Revenue Purposes the Commission shall be responsible for conducting any Allotment in accordance with Proposal for the Allotment of Community Lands for Revenue Purposes.

PART V: INTERPRETATION

30. APPLICATION OF LAW

- 30.1 Where any federal Act or regulation or provincial Act or regulation or any other Westbank Law may apply to any matter covered by this Law, compliance with this Law will not relieve the person from also complying with the provisions of the other applicable Act, regulation or law.
- 30.2 If any section of this Law is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or subsection will be severed from and not affect the remaining provisions of this Law.
- 30.3 The headings given to the sections and paragraphs in this Law are for convenience of reference only. They do not form part of this Law and will not be used in the interpretation of this Law.

PART VI: PENALTY

31. PENALTY

- 31.1 Any person who violates any provision of this Law is guilty of an offence and liable upon summary conviction to a fine of up to ten thousand (\$10,000) dollars or to a term of imprisonment not exceeding thirty (30) days, or both.

SCHEDULE "A"

OATH OF OFFICE

I, _____, do hereby accept the office of
Commissioner for the Westbank First Nation Allotment Commission.

I solemnly swear that I will do my utmost to carry out the duties of my office faithfully,
impartially and to the best of my ability, keeping in mind that at all times my primary duty
is to serve the Membership in the best interests of Westbank First Nation.

I swear not to disclose or cause to be disclosed, during or subsequent to my term of
office as Commissioner any matter or information which is confidential under Westbank
Law or other applicable law except in accordance with that law.

I have read the Conflict of Interest sections in the Westbank First Nation Allotment Law
and swear to comply with those provisions.

SWORN BEFORE ME at

_____, this

_____ day of _____,

20_____.

Justice of the Peace, Notary Public,

Commissioner for Oaths, etc.

Signature

BE IT KNOWN that this Law entitled, "Westbank First Nation Allotment Law No. 2006-03" is hereby:

Read a first time by Council of Westbank First Nation at a duly convened meeting held on the 14th day of October, 2005;

Read a second time at a Special Membership Meeting held on the 17th day of November, 2005;

Read a third time at the duly convened Council Meeting on the 24th day of January, 2006.

Enacted by a referendum vote held on the 2nd day of March, 2006.

Signed by the following members of Council:



Chief Robert Louie



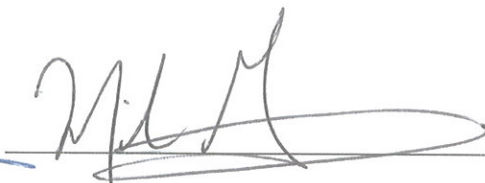
Councillor Brian Eli



Councillor Loretta Swite



Councillor Michael Werstuik



Councillor Miguel DeGuevara