

# STÁUTW COUNCIL GOVERNANCE MANUAL, 2022

Approved by Council: January 19, 2020

[illegible]

## COUNCIL'S MISSION

- Create transparency throughout the STÁUTW\_ Administration and provide accountable leadership for STÁUTW\_peoples.
- Uphold STÁUTW\_ peoples' Indigenous laws, SENĆOŦEN language culture, values, traditions
- Ensure all negotiations undertaken by STÁUTW\_ and decisions made on behalf of STÁUTW\_lead STÁUTW\_towards being a healthy, sustainable and safe community.

## COUNCIL'S VISION

- To empower STÁUTW\_ people, spiritually, intellectually, physically, and emotionally
- Sufficient housing for all STÁUTW\_people
- Full jurisdiction over matters pertaining to Council leadership selection and accountability (Custom Election Law), children and families (Child and Family Laws and Resources), and Douglas Treaty Implementation
- All STÁUTW\_people are self-sufficient and independent, and they seize opportunities for education and meaningful work / jobs

## COUNCIL VALUES

- Accomplishment / Achievement and Prosperity - working hard to achieve success and help STÁUTW\_flourish economically, mentally, spiritually, culturally, physically
- Dependability - being trustworthy and reliable
- Honesty and Trustworthiness - providing others confidence in our integrity, reliability and fairness
- Wisdom, Elders Care, Culture and Traditions
- Honor, and Respect
- Courage - maintaining mental, moral, spiritual, and physical strength
- Results-focussed

The Council commits to consider and honour our **Values** in all decision-making and actions we take. We will use them to inform and guide us in our behaviour towards one another and towards others both inside and outside of the STÁUTW\_ community.

In accordance with these **Values**, we will seek to achieve our **Mission** so that in the long-term our **Vision** can become a reality.

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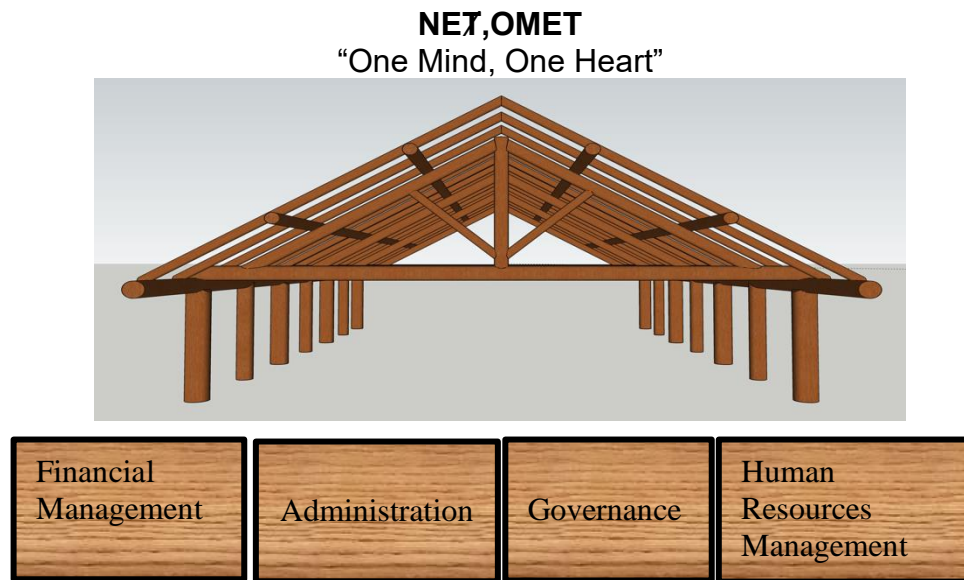
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## POLICY 1 INTRODUCTION TO STÁUTW GOVERNANCE MANUAL

### A. PURPOSE

The STÁUTW Council Governance Manual is one (1) of four (4) organizational policies for STÁUTW First Nation. The following diagram outlines how each policy compliments and aligns with one another in building an organization that fosters workplace and service excellence. All of these policies are founded upon the Coast Salish understanding of NEȚ,OMET. In the SENCOTEN language, NEȚ,OMET refers to our relationships being of one mind, one heart.



The purpose of this policy is to:

- Set out information regarding the structure of this Manual and where things can be found within it.
- Define key terms used throughout this Manual.
- Provide clarity regarding why Council has decided to develop this Manual as its interim governing policy.

### B. AUTHORITIES AND DEFINITIONS

#### *Definitions*

In this Governance Manual, the following definitions apply unless it is obvious that they do not apply in the circumstances:

**“Annual Budget”** means a budget setting out the projected local revenues and projected expenditures of those local revenues during a budget year, and setting out expenditures made in accordance with section 13.1 of the *First Nations Fiscal Management Act*, S.C. 2005, c.9;

**“Band Council Resolution”** is a written document setting out a decision of the Council made on behalf of STÁUTW, which is prepared and signed in accordance with Policy 7;

**“Band Manager”** means the person appointed by Council to:

- Manage the overall administration and operations of STÁUTW in accordance with STÁUTW Laws, STÁUTW By-laws, policies and procedures, and plans; and
- Control and direct STÁUTW Employees;
- 

**“Chief”** means the person who is duly elected to hold the position of elected Chief of STÁUTW;

**“Conflict of Interest”** means any situation that might cause an impartial observer to reasonably question whether a Council Member’s actions are influenced by considerations of private interest that would result in the Council Member receiving a direct personal benefit, such as financial interests, personal interests, personal relationships, or interests related to other outside activities;

**“Council”** means the sum of all those persons duly elected to be the Chief and Council of STÁUTW;

**“Councillor”** means a person who is duly elected to hold the position of Councillor of STÁUTW;

**“Council Member(s)”** refers to any duly elected member of Council, including the Chief and the Councillors;

**“Council Meeting”** means a duly convened meeting of Council, which is a meeting:

- that is called at the request of the majority of Council;
- to which advance notice is given to each Council Member; and
- is attended by a Quorum of Council.

**“Governance Manual”** and **“Manual”** means this *STÁUTW First Nation Governance Manual, 2022*;

**“Indian Act”** means the *Indian Act*, RSC 1985, c I-5;

**“Member”** means an individual whose name appears on the STÁUTW First Nation membership list;

“**Quorum**” refers to fifty percent plus one (50% + 1) of duly elected Council Members present at a Council Meeting;

“**STÁUTW**” and “**STÁUTW First Nation**” means the STÁUTW Band, a “Band” within the meaning of section 2 of the *Indian Act*;

“**STÁUTW By-law**” means a by-law of STÁUTW that is enacted pursuant to the *Indian Act*;

“**STÁUTW Employee**” means a person who is appointed by the Band Manager to work for STÁUTW;

“**STÁUTW FAL**” means the *STÁUTW First Nation Financial Administration Law*, 2018, enacted in accordance with the *First Nation Fiscal Management Act*, (S.C. 2005) c.9; and

“**STÁUTW Lands**” means lands set apart by Canada as lands reserved for the use and benefit of STÁUTW, within the meaning of subsection 91(24) of the *Constitution Act, 1982* and section 2(1) of the *Indian Act*.

## C. POLICY

### ***Application of this Governance Manual***

This Governance Manual applies to all actions and decisions of the Council.

### ***Policies Within This Manual***

This Manual is divided into the following seven policies:

Policy 1	Introduction to STÁUTW Governance Manual
Policy 2	Council Orientation and Succession Planning
Policy 3	Council's Roles and Responsibilities
Policy 4	Council Meetings and Decision-Making
Policy 5	Council and the Band Manager
Policy 6	Council and STÁUTW Employees
Policy 7	Council and STÁUTW Members

### ***What is Included in Each Policy?***

Each policy in this Manual is divided into sections as follows:

#### **Section A      Purpose**

This section in each policy sets out the objectives of the policy and an overview of what will be covered in the policy.

## **Section B      Authorities & Definitions**

This section in each policy sets out the relevant sections of the *STÁUTW First Nation Land Code* and any other laws of Canada, or *STÁUTW* laws, by-laws, policies, or procedures, that apply to the specific policy. It also sets out any relevant definitions.

## **Section C      Policy**

This section in each policy sets out policy statements that are specific to the dispute resolution process covered within the policy.

## **Section D      Process**

This section in each policy sets out the procedures that must be followed by Council, *STÁUTW* Administration personnel and the Panel, as applicable, in their carrying out of responsibilities under each policy and in responding to requests from individuals regarding *STÁUTW* Land Disputes.

## **Section E      References**

This section in each policy sets out resources that can be referred to for additional information on the specific issue covered under the policy.

### ***Why Does STÁUTW Need a Council Governance Manual***

Council has broad power to enact laws, by-laws, and policies, to negotiate surrenders and designations of *STÁUTW* lands, and to make decisions that impact upon the interests, needs and rights/title of *STÁUTW* Members.

As elected officials who represent Members, it is important that Members understand how Council plans to exercise its powers, and how Council Members intend to fulfill their roles and responsibilities. This Manual will:

- Provide a structure for Council to learn about and address Member's Values, Ideas and Recommendations: Council will have a structure within which they can learn about Member views and preferences on proposed actions and decisions, and seek Member feedback on *STÁUTW* laws, by-laws, policies, procedures, programs, and services.
- Inform Members About the Roles and Responsibilities of Council: Members will better understand how decisions are made and will be made aware of the factors considered by Council in their decision-making.

- Build Community Capacity: Members will know more about how STÁUTW First Nation is governed and be better prepared to act on Council and participate in STÁUTW First Nation operations (if they choose to do so). As time goes on, more Members will be prepared to take on leadership roles.
- Build Trust and Confidence: Members will better understand Council decision-making and they will have increased trust in decisions made by Council and the administration on their behalf.

### **D. PROCESS**

When Council has a decision to make, or an issue before them, they can go to the main table of contents or skip ahead to the relevant policy within this Manual to assist them with making their decision or responding to their issue.

### **E. REFERENCES**

There are no specific references for Council to consider regarding this Policy.

## POLICY 2: COUNCIL ORIENTATION AND SUCCESSION PLANNING

### A. PURPOSE

The purposes of this Policy are to:

- Build a strong foundation for the relationships amongst new and continuing Council Members.
- Introduce new Council Members to their roles, duties and responsibilities as Council Members and the legal structure under which STÁUTW operates.
- Provide returning Council Members an opportunity to share their knowledge with new Council Members regarding their role, duties and responsibilities and the structure under which the STÁUTW operates.
- Provide an opportunity for the Band Manager and senior STÁUTW Employees to discuss the operation of their respective departments with Council and acquaint new Council Members with relevant issues, department concerns, outstanding and future issues and projects, and other matters.

### B. AUTHORITIES AND DEFINITIONS

No specific authorities or definitions apply to this policy

### C. POLICY

#### ***Duty to Attend Orientation***

Each Council Member must attend all orientation meetings, regardless of whether they are new or continuing Council Members.

#### ***Duty to Prepare Orientation Manual and Arrange Orientation Meetings***

The Band Manager must:

- On or before the date a new Council takes office, ensure updated Orientation Manuals as set out in this Policy are prepared for each new Council Member.
- On or before the date a new Council takes office, ensure each Council Member is provided with an updated Orientation Manual.
- In consultation with Council Members, arrange all orientation meetings required under this Policy as Extraordinary Council Meetings.

## ***Duty to Review and Understand All Documents in the Orientation Manual***

Each Council Member is responsible for reading and understanding all documents in the Orientation Manual. Where a Council Member does not understand a document in the Orientation Manual, they must take reasonable steps to educate themselves on it.

## ***Orientation Manual***

An Orientation Manual must contain copies of the following documents organized in tabs:

- **Tab 1: This Governance Manual.**
- **Tab 2: STÁUTW Governing Documents**, including:
  - The STÁUTW FELK,ČÁNENEN Representative structure.
  - For each FELK,ČÁNENEN Representative, additional documents to be provided to the Council Member responsible for that portfolio, containing:
    - A band council resolution approving the scope of the authorities for that FELK,ČÁNENEN Representative, along with information on lines of accountability and reporting requirements.
    - Any terms of reference for related committees and advisory bodies.
    - Any band council resolutions appointing persons to related committees and advisory bodies.
    - Financial statements relating to each of the STÁUTW programs and departments falling within that FELK,ČÁNENEN Representative's scope of responsibility.
  - Any Terms of Reference and other documents that exist for the operations of STÁUTW Committees.
  - A list of all acronyms and key terms that Council Members must be familiar with for the carrying out of their duties.
  - A copy of Roberts Rules of Order.
- **Tab 3: Key STÁUTW Operational Documents**, including:
  - The Band Manager' job description.
  - The STÁUTW Human Resources Policy Manual and a current organizational chart for STÁUTW.



- **Tab 4: WSÁNEĆ and STÁUTW Laws, STÁUTW By-laws, Policies, Plans and Strategic Frameworks**, including:
  - A copy of the Douglas Treaty.
  - Copies of all current STÁUTW Laws and STÁUTW By-laws, including all;
    - Finance Laws, such as the:
      - STÁUTW First Nation Financial Administration Law.
      - STÁUTW First Nation Annual Expenditure Law.
      - STÁUTW First Nation Annual Tax Rates Law.
      - STÁUTW First Nation Borrowing Agreement Law.
      - STÁUTW First Nation Property Assessment Law.
      - STÁUTW First Nation Property Taxation Law.
    - Laws relating to infrastructure development, such as the:
      - STÁUTW First Nation Sewage Treatment Plant Upgrade Long-term Capital Borrowing Law.
      - STÁUTW First Nation Subdivision, Development and Servicing Law.
      - STÁUTW First Nation Building Law.
      - STÁUTW First Nation Sewer Use Law.
      - STÁUTW First Nation Waterworks Bylaw.
      - STÁUTW First Nation Sanitary Sewer System Bylaw.
    - Laws relating to use, occupation, and possession of STÁUTW Lands, such as the:
      - STÁUTW First Nation Trespass Law.
      - STÁUTW First Nation Matrimonial Real Property Law.
      - STÁUTW First Nation Community Land Disposition Law.
      - STÁUTW First Nation Disorderly Conduct Bylaw.
      - STÁUTW First Nation Nuisance Premises Bylaw.
      - Soil Deposit and Removal – BCR.
  - copies of all current STÁUTW policies, plans and strategic framework documents, including the:
    - Housing Policy Manual
    - Lands Advisory Committee Policy Manual
    - A Policy to Establish the Community Assessment Requirements and Procedures.

- Individual Agreement on First Nation Land Management.
  - copies of all *draft* STÁUTW Laws, STÁUTW By-laws, policies, plans and strategic frameworks that have been introduced and are set to be considered by the new Council.
  - Dispute Resolution Policy Manual
- **Tab 5: Copies of approved STÁUTW Council Minutes and Resolutions from the past 6 months.**
- **Tab 6: STÁUTW Financial Documents**, including:
  - The most recent STÁUTW multi-year financial plan.
  - The most recent STÁUTW annual report.
  - The Budget for STÁUTW's current fiscal year.
  - STÁUTW's most recent approved audited financial statements and management letter from STÁUTW's auditor.
- **Tab 7: STÁUTW Corporate Documents**, including:
  - The Constitution and by-laws for the WSÁNEĆ Leadership Council Society.
  - The constitution and by-laws for any other society to which STÁUTW is a member.-- NilToa
  - The articles of any company for which STÁUTW is a shareholder.
- **Tab 8: STÁUTW Committee Information**, including:
  - A list of each STÁUTW committee.
  - A copy of each STÁUTW committee's terms of reference, and any policies and procedures related to that STÁUTW committee.
  - A list of the persons who sit on each STÁUTW committee, along with copies of the band council resolutions appointing those persons to those committees.
  - Copies of the minutes each STÁUTW committee's last four committee meetings.

## ***Orientation Binder Available to Public at the Administration Office***

The Band Manager must ensure a copy of the Council Orientation Manual is made available to the public by ensuring a copy of the Council Orientation Manual is in the front lobby of the STÁUTW Administration Building.

## ***Management of Orientation Process***

The Band Manager is responsible for managing the orientation process in accordance with the requirements set out in this Policy.

## ***Preparation and Provision of Orientation Manual to New Council***

Prior to a new Council taking office, the Band Manager must ensure an Orientation Manual is prepared and provided to the Council Members.

Where a person is re-elected into a position on Council, the Band Manager must ensure that person's Orientation Manual is updated.

## ***Signing of Key Documents***

Within three (3) months of a new Council taking office, each Council Member must read this Governance Manual and the Council Orientation Manual and provide the Band Manager with the following completed and signed documents:

- **Form 1: Acknowledgment Form**, setting out that the Council Member has read, understands, and agrees to comply with this Governance Manual and the Council Orientation Manual.
- **Form 2: STÁUTW First Nation Council Member Oath of Office**, setting out that the Council Member has read, understands, and agrees to perform their duties in the manner set out in this Governance Manual.
- **Form 3: STÁUTW First Nation Council Member Code of Conduct**, setting out that the Council Member has read, understands, and agrees to adhere to the standard of conduct.
- **Form 4: STÁUTW First Nation Confidentiality Agreement**, setting out that the Council Member has read, understands, and agrees to adhere to the standard of conduct regarding confidential information.
- **Form 5: STÁUTW First Nation Conflict of Interest Agreement**, setting out that the Council Member has read, understands, and agree to adhere to the standard of conduct regarding Conflicts of Interest.

## ***Council Files***

The Band Manager must maintain a Council File for each Council Member that contains the following items, organized in tabs:

- **Tab 1:** signed copies of the following documents:
  - Form 1: Acknowledgment Form
  - Form 2: STÁUTW First Nation Council Member Oath of Office
  - Form 3: STÁUTW First Nation Council Member Code of Conduct
  - Form 4: STÁUTW First Nation Confidentiality Agreement
  - Form 5: STÁUTW First Nation Conflict of Interest Agreement
- **Tab 2:** Professional Development Goals and Activities
- **Tab 3:** Renumeration amounts, including those received from STÁUTW and from external bodies.
- **Tab 4:** any documentation relating to complaints made by either STÁUTW Employees or Members against the Council Member, including any Investigation Reports or information regarding how those complaints were resolved.
- **Tab 5:** Information relating to any breaches of the Council Member's obligations under those forms set out in Tab 1.

## ***Storage of Council Files***

All Council Files must be stored securely in the Band Manager's office, in a locked cabinet that only the Band Manager and the Chief have a key to.

## ***Retention of Council Files***

All Council Files must be retained by STÁUTW for seven years after STÁUTW-Council Member relationship ends.

## ***Destruction of Council Files***

After the retention period set out in this policy has passed, the Band Manager may destroy the contents of a Council File. Such destruction must be carried out in a secure and permanent manner.

## D. PROCESS

### ***Orientation to Organizational Structure of the WSÁNEĆ Leadership Council Society and History of the Douglas Treaty and its Implementation***

Within two (2) months of a new Council taking office, the Band Manager must arrange for, and all Council Members must attend, a meeting in which they are:

- introduced to the Staff and Executive Members of the WSÁNEĆ Leadership Council Society;
- provided an update from the WSÁNEĆ Leadership Council Society on current projects, initiatives, negotiations, etc.; and
- provided an opportunity to learn about their roles as Council Members representing STÁUTW as members of the WSÁNEĆ Leadership Council Society.

### ***Orientation to the Fiduciary Duties of Council Members***

Within three (3) months of a new Council taking office, the Band Manager must arrange for, and all Council Members must attend, a presentation on the fiduciary duties of Council Members and the legal risks of a failure to comply with their fiduciary duties.

### ***Orientation to Organizational Structure of the STÁUTW Band Administration***

Within three (3) months of a new Council taking office, the Band Manager must arrange for, and all Council Members must attend, a meeting in which they are provided with:

- a comprehensive overview of the STÁUTW organizational chart and the roles, responsibilities, relationships, and structure of all levels of the STÁUTW Administration, including STÁUTW Employees and STÁUTW Committees with a focus on lines of supervision and reporting.
- a comprehensive overview of the legislative framework under which STÁUTW operates, including a review of all existing STÁUTW Laws, STÁUTW By-laws, policies, and procedures, plans and strategic frameworks that govern STÁUTW affairs, the roles, and responsibilities of Council under each governing document and limitations on Council authority under each governing document.
- a short presentation from the Manager of each department within the STÁUTW Administration that provides Council with an overview of the responsibilities each department has and any major projects that the department is working on.

## ***Orientation to Organizational Structure of STÁUTW Band-owned Entities***

Within six (6) months of a new Council taking office, the Band Manager must arrange for, and all Council Members must attend, a Council orientation meeting in which they are:

- introduced to key persons who manage the operations of each STÁUTW-owned entity;
- provided a presentation from each STÁUTW-owned entity, covering its creation and mandate; and
- a presentation setting out the roles, duties, and powers of Council as shareholders and trustees, as well as in their roles as directors, in relation to STÁUTW-owned entities.

## ***Douglas Treaty Implementation***

Within six (6) months of a new Council taking office, the Band Manager must arrange for, and all Council Members must attend, a meeting in which they are provided an overview of the Douglas Treaty and its implementation.

## ***Placement of Documents in a Council File***

Every time this Manual requires a document to be placed in a Council File, the person placing that document in the Council File must:

- make a notation on the top right-hand side of the first page of the document setting out their name and signature, along with the date on which the document is being placed in the Council File, and
- where a copy of that document is delivered to a person, make a notation on the top left-hand side of the first page of the document setting out the name of the person to whom the document is delivered, the way it is delivered to them, and the date on which the document is delivered.

## ***All Documentation Regarding a Council Member's Breach of Duties Must be Placed in their Council File***

Any time a Council Member breaches their duties as set out in this Governance Manual, or as set out in their Oath of Office, Code of Conduct, Confidentiality Agreement or Conflict of Interest Agreement, the Chief – or in the case of a breach by the Chief, the Band Manager – must ensure that all documentation regarding that breach is placed in their Council File.

### ***Access to Council Files by Band Members by Written Request and Must be Supervised by Band Manager, and Documented***

All Band Members have a right to review a Council Member's Council File by way of a written request to the Band Manager, setting out their name, membership number, and the reason why they are accessing the Council Member's File.

When a Band Member accesses a Council File, the copy of their request must be placed in that Council File, along with a notation setting out the date and time on which the Band Manager oversaw their access to that Council File.

All access to a Council File must be supervised by the Band Manager and the information in the Council File must be redacted by the Band Manager to remove any information that:

- is protected by legal privilege;
- is collected by STÁUTW for an investigation or legal proceeding, mediation, arbitration, or dispute resolution process;
- would reveal the identity of a person who has made a complaint about the Council Member;
- would threaten someone's life or security;
- would reveal someone else's personal information; or
- would reveal the identity of someone who provided personal information about someone else.

Upon written request, the Band Manager must also tell the Council Member how their personal information has been used and to whom it has been disclosed.

The Band Manager must ensure adequate time is provided to Band Members who wish to access a Council File. This will be especially necessary during the period leading up to an election but after nominations have closed when it is anticipated there will be increased demand for access to Council Files.

### ***Use of Personal Information in Council File***

The Band Manager must not use the personal information of an individual that is contained in a Council File for any reason not set out in this Manual without the written consent of the individual to whom the personal information relates, **unless**:

- the use is clearly in the interests of the individual and consent cannot be obtained in a timely way;

- the use is necessary for the medical treatment of the individual and the individual does not have the legal capacity to give consent;
- the use is required or authorized by law;
- the personal information is needed to facilitate the collection of a debt owed to STÁUTW or the payment of a debt owed by STÁUTW; or
- the use is necessary to respond to an emergency that threatens the life, health, or security of an individual.

### ***Disclosure of Personal Information in Council File***

STÁUTW must not disclose the personal information of an individual that is contained in a Council File without the written consent of the individual to whom the personal information relates, for any purpose other than the administration of the policies in this Manual, **unless**:

- the disclosure is clearly in the interests of the individual and consent cannot be obtained in a timely way;
- the disclosure is necessary for the medical treatment of the individual and the individual does not have the legal capacity to give consent;
- the disclosure is for the purpose of complying with a subpoena, warrant or order issued or made by a court, person, or body with jurisdiction to compel the production of personal information;
- the disclosure is to a public body or a law enforcement agency in Canada, concerning an offence under the laws of Canada or a province, to assist in an investigation, or in the making of a decision to undertake an investigation,
  - to determine whether the offence has taken place, or
  - to prepare for the laying of a charge or the prosecution of the offence;
- there are reasonable grounds to believe that compelling circumstances exist that affect the health or safety of any individual and notice of disclosure is mailed to the last known address of the individual to whom the personal information relates;
- the disclosure is for the purpose of contacting next of kin or a friend of an injured, ill, or deceased individual;
- the disclosure is to a lawyer who is representing STÁUTW;



- the disclosure is to an archival institution if the collection of the personal information is reasonable for research or archival purposes; or
- the disclosure is required or authorized by law.

### ***Requirement to Document Content of and Access to Council Files***

Every time a person places or removes a document from a Council File, or accesses a Council File, that action must be documented in the Council File.

### ***Duty to Inform Council Members of Documents Being Placed in Their Council File***

No person must place information in a Council File unless a copy is provided to the Council Member.

## **E. REFERENCES**

In addition to this Policy, you may wish to refer to:

- the Orientation Manual;
- the *Business Corporations Act* [SBC 2002] Chapter 57; and
- the *Societies Act* [SBC 2015] Chapter 18.

## POLICY 3: COUNCIL AUTHORITIES, ROLES AND RESPONSIBILITIES

### A. PURPOSE

The purpose of this Policy is to:

- Define the role of Council as a whole, the Chief, and Councillors.
- Establish a standard process for appointment of  $\text{FELK,ČÁNENEN}$  (telling, sharer) Representative and development of portfolio mandates.
- Set out the legal duties Council must comply with in their decision-making.
- Set out the duties, powers, and responsibilities of Council regarding political and financial affairs.
- Define the role of individual Councillors.

### B. POLICY

#### *Where Does Council Get Its Authority?*

Council obtains its authority to act on behalf of STÁUTW from:

- **Inherent Powers as Indigenous Peoples**, which are exercised pursuant to and in accordance with:
  - **Traditional laws, practices, and traditions of STÁUTW peoples**, which include the key principles and teachings that come from the following and are binding laws on the STÁUTW peoples:
    - STÁUTW peoples' creation story.
    - STÁUTW longhouse practices and traditions.
    - SENĆOTEN language.
  - **United Nations Declaration on Rights of Indigenous Peoples:**
    - **Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.
    - **Article 4:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in

matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

- **Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social, and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social, and cultural life of the State.
- **Article 8:** 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
- **Article 11:** 1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures
- **Article 14:** 1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
- **Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- **Article 20:** 1. Indigenous peoples have the right to maintain and develop their political, economic, and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
- **Article 32:** 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water, or other resources.
- **Article 34:** Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the

cases where they exist, juridical systems or customs, in accordance with international human rights standards.

- **Section 35 of the *Constitution Act, 1982*** (Aboriginal Rights and Title), which says:

**Recognition of existing aboriginal and treaty rights**

35 (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

**Definition of *aboriginal peoples of Canada***

(2) In this Act, *aboriginal peoples of Canada* include the Indian, Inuit and Métis peoples of Canada.

**Land claims agreements**

(3) For greater certainty, in subsection (1) *treaty rights* includes rights that now exist by way of land claims agreements or may be so acquired.

**Aboriginal and treaty rights are guaranteed equally to both sexes**

(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons

- **Delegated Law-Making Powers, and powers of decision-making about STÁUTW Lands, financial affairs, and social programs**, which are exercised in accordance with the:

- ***Indian Act***, (R.S.C., 1985, c.I-5): This law provides authority to Council to The council of a band may make by-laws not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister, for any or all of the following purposes, namely, the health of residents on reserve, rights of spouses, common-law partners and children, traffic, observance of law and order; prevention of disorderly conduct and nuisances, trespass by persons, cattle, animals, construction and maintenance - watercourses, bridges, local works, zoning, building and construction, allotment of reserve lands, destruction and control of noxious weeds, bee keeping and poultry raising, gaming, sports, races, athletic contests, and other amusements.

The *Indian Act* also authorizes Council to make taxation by-laws.

- ***First Nations Land Management Act*** (S.C. 1999, c. 24): This law provided authority to STÁUTW to create the STÁUTW First Nation Land Code and land laws and take control over the management of their Reserve Lands, rather than having those lands continue to be managed by Canada under the *Indian Act*.
- ***Family Homes on Reserves and Matrimonial Interests or Rights Act*** (S.C. 2013, c. 20): This law provides authority to STÁUTW to create its own laws regarding the rights of a Member's non-member spouse or common-law partner with respect to the Member's interest in Reserve Lands. This includes a power to create laws about the division of assets after a separation, divorce or the death of a Member's Non-Member spouse or common-law partner. It also includes power to create laws about who can exclusively live in the home when domestic violence occurs. This law also sets out default rules that apply to non-land code first nations who have not yet developed their own laws to cover these matters.
- ***First Nations Jurisdiction over Education in British Columbia Act*** (S.C. 2006, c. 10): This law provides authority to STÁUTW to create its own laws regarding education on its Reserve Lands, including: the establishment of schools, school boards and parents' advisory committees, school curriculum, costs of providing education on reserve, and certification of teachers who teach on Reserve Lands.
- ***First Nations Financial Transparency Act*** (S.C. 2013, c. 7): This law that sets out the requirements of how STÁUTW must report back to Members on its financial spending. This law does not provide STÁUTW with any authority to create its own laws, but STÁUTW may develop policies on how it will engage with Members to comply with its obligation to report on financial spending.
- ***First Nations Fiscal Management Act*** (S.C. 2005, c. 9): This law provides authority to STÁUTW to create its own laws regarding how STÁUTW finances are managed, as well as laws relating to the taxation of interests in Reserve Lands, and service fees STÁUTW can charge for providing access to services or facilities on Reserve Lands (ex. sewer, water, waste management, animal control, etc), the enforcement of those laws and the borrowing of money by STÁUTW from the First Nations Finance Authority.
- ***First Nations Jurisdiction over Education in British Columbia Act***, S.C. 2006, c.10 and the ***First Nations Education Act***, [SBC 2007] C.40: These laws work together providing a process for STÁUTW to enter into an agreement with Canada and British Columbia to take over jurisdiction of education on reserve and enact its own Education Laws, and to manage schools on reserve and various matters pertaining to education in accordance with that Education Law.

- ***Specific Claims Tribunal Act*** (S.C. 2008, c.22): This law creates a specialized court, known as a tribunal, to hear claims made by first nations regarding the actions of the Crown (i.e. government) in its administration of a first nation's reserve lands and assets, as well as issues regarding the Crown's fulfillment of obligations to a first nation under a historical treaty. Generally, Council manages the specific claims negotiation, mediations, and settlement processes.
- ***An Act respecting First Nations, Inuit and Metis children, youth and families***, S.C. 2019, c.24: This law sets out the process within which Indigenous peoples can take over jurisdiction regarding child and family services, including legislative authority in relation to those services and the authority to administer and enforce laws made under that legislative authority. For Council to exercise this legislative power, the Indigenous peoples who make up STÁUTW First Nation would need to authorize Council to act as their Indigenous governing body.
- ***Declaration on the Rights of Indigenous Peoples Act***, [SBC 2019] C.44: This law provides a process within which Indigenous peoples can – through their authorized Indigenous governing body – enter into agreements with the provincial government for shared exercise of powers for decisions being made under provincial laws by the provincial government. For Council to exercise this legislative power, the Indigenous peoples who make up STÁUTW First Nation would need to authorize Council to act as their Indigenous governing body.
- ***Business Corporations Act***, [SBC 2002] C.57: This law sets out how Council can, on behalf of STÁUTW, incorporate a company, and it sets out the powers and obligations of Council when Council holds shares in a company on behalf of STÁUTW Members. Additional powers and obligations may also be set out in a shareholder agreement, or a trust document that states how Council will exercise its powers on behalf of STÁUTW Members.
- ***Societies Act***, [SBC 2015], C18: This law sets out how Council, on behalf of STÁUTW, can incorporate a non-profit society that has as its purpose some agricultural, artistic, benevolent, charitable, educational, environmental, patriotic, philanthropic, political, professional, recreational, religious, scientific, social, or sporting purpose.
- **STÁUTW Laws and STÁUTW By-laws, Policies and Procedures.**
- **funding agreements between STÁUTW and ISC that set out how STÁUTW will administer ISC-funded programs and services.**

## ***Limits on Council Authorities***

The authority of Council is limited by:

- **Traditional laws, practices, and traditions of STÁUTW peoples**, which include the key principles and teachings that come from the following and are binding laws on the STÁUTW peoples:
  - STÁUTW peoples' creation story.
  - STÁUTW peoples' longhouse.
  - SENĆOTEN language.
- **Obligations of Council as Fiduciaries (Fiduciary Duties – See more below on this).**
- **Human Rights Laws**, including the:
  - ***Charter of Rights and Freedoms***, which sets out rights of persons as against STÁUTW. including rights to freedom of expression and association, and rights to equality.
  - ***Canadian Human Rights Act*** (R.S.C., 1985, c. H-6), which protects persons from being discriminated against by the Council, the Band Manager and any STÁUTW Employee on the basis of their race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

## ***Common-law Powers of Council***

Under the “common law”, Council is considered a legal person, in the same way as any other person, meaning Council is recognized as being able to enter into legal agreements with others on behalf of STÁUTW.

This does **not** mean Council has authority to do so in all circumstance though. What it means is that Council has the implicit legal capacity to bring a lawsuit on behalf of STÁUTW, and to be sued by others as representatives of STÁUTW.

## ***Governance Roles and Responsibilities of Council***

The Council will be responsible for the following functions:

- STÁUTW Rights and Title Protection.

- Development of STÁUTW Laws, STÁUTW By-laws, Policies and Procedures;
- Planning and risk management;
- Management of STÁUTW political affairs;
- Management of STÁUTW financial affairs;
- Management and stewardship over STÁUTW Lands and natural resources;
- Oversight of the Band Manager;
- Development and approval of Human Resources policies and procedures respecting STÁUTW Employees, other than the Band Manager; and
- its relationship with Members and community involvement.

### ***Chief's Individual Responsibilities***

The Chief must:

- undertake the duties of a Chairperson for Council Meetings.
- support a decision of Council, meaning the Chief may not agree with the decision, but the Chief will support the decision in public;
- respect the role of the Band Manager and bring any concerns regarding matters pertaining to STÁUTW Employees to the Band Manager's attention for the Band Manager to resolve;
- ensure STÁUTW is appropriately represented in meetings with governments, private industry, Aboriginal organizations, media, and other stakeholders;
- act as STÁUTW's exclusive contact with the media, unless delegation is necessary in which case the Chief will delegate a Councillor to be the contact for media;
- adhere to this Governance Manual, STÁUTW Laws, STÁUTW By-laws, policies, and procedures; and
- act as the point person – ***but not as a sole decision maker*** – for Council in the negotiation of agreements between STÁUTW and other governments unless delegation is necessary in which case the Chief will delegate a Councillor to be the point person.



## ***Councillor's Individual Responsibilities***

Each individual Councillor must:

- support a decision of Council, meaning the Councillor may not agree with it, but the Councillor will support the decision in public;
- respect the role of the Band Manager and bring any concerns regarding matters pertaining to STÁUTW Employees to the Band Manager's attention for the Band Manager to manage; and
- adhere to this Governance Manual, STÁUTW Laws, STÁUTW By-laws, policies, and procedures.

## ***Responsibilities of Council Members as TELK,ĆÁNENEN (telling, sharer) Representative***

TELK,ĆÁNENEN (telling, sharer) Representatives are responsible for the following:

- becoming familiar with federal laws, provincial laws, STÁUTW Laws, By-laws and policies and procedures that impact upon their fulfillment of their mandate;
- reporting to Council on laws, policies, programs, and services from all levels of government that impact their mandate or affect STÁUTW with regard to their areas of responsibility;
- providing information and advice to Council;
- attending meetings, conferences, functions, and gatherings that have as a topic their areas of responsibility;
- networking and acting as a liaison with individuals, organizations and governments that fall within their mandates, as requested by Council;
- propose to Council any STÁUTW Laws, By-laws, policies, and procedures that are within their areas of responsibility; and
- with the approval of Council, advocate for STÁUTW on issues that are within their areas of responsibility.

## ***Role of a Council Member on Committees***

- From time-to-time a Council Member may be asked to serve on a committee.
- Where a Council Member serves on a committee, that Council Member must keep the rest of Council informed of their actions and activities on that committee.

## ***Fiduciary Responsibilities of Council***

The Council has a fiduciary duty to act in the best interest of STÁUTW and its Members, which requires the Council Members to not engage in self-dealing, misappropriation of public funds for personal purposes, or serious, unsanctioned Conflicts of Interest.

Council Members are required to act:

- with a heightened sense of loyalty and fidelity towards Members. This means Council must avoid and mitigate any conflicts of interest and respect matters of confidentiality. Council Members must not use information obtained in the carrying out of their role as a Council Member for their own direct benefit, influence, or advantage.
- in a manner, consistent with the best interests of Members and STÁUTW Band as a whole. This means Council must:
  - stay informed by reading minutes, agendas, and support material for decisions they will be making;
  - attend meetings regularly and vote on issues put before them; and
  - be knowledgeable about the policies and operations of STÁUTW. Where Council is not knowledgeable about a matter that is to be decided, they must seek outside expertise and advice on the matter; and
  - connect with Members and keep up to date on Members' needs in order to use such knowledge in their long-term governance, planning and strategizing.

**Failure of the Council to comply with the requirements of s. 2(3) of the *Indian Act* (majority decision making at a duly convened meeting) is a breach of fiduciary duty.**

### ***What is a Fiduciary?***

A fiduciary is a person who has agreed to act for another person by exercising a power or discretion that will affect that person's interests.

### ***Elements of a Fiduciary Relationship***

There are three key elements that give rise to a fiduciary relationship:

- 1) The fiduciary has scope for the exercise of some discretion or power.
- 2) The fiduciary can unilaterally exercise that power or discretion to affect the beneficiary's legal or practical interests.

- 3) The beneficiary is peculiarly vulnerable to or at the mercy of the fiduciary holding the discretion or power.

## **Common Examples**

Common examples of fiduciary relationships include:

Lawyer – Client  
 Doctor – Patient  
 Trustee – Beneficiary

## **Fiduciary Duties**

The law imposes a high standard of conduct on fiduciaries. A fiduciary must act honestly, in good faith and strictly in the best interests of the person for whom the fiduciary acts. A fiduciary must also act with care.

The legal obligations owed by a fiduciary are known as fiduciary duties. These duties are often described as:

- 1) The Duty of Loyalty and Fidelity;
- 2) The Duty of Utmost Good Faith; and
- 3) The Duty of Care.

## **Chief and Council Members as Fiduciaries**

Canadian courts have consistently held that chief and council members owe fiduciary duties to band members in relation to their acts as representatives of the band: *Assu v. Chickite*, 1998 CanLII 3974 (BCSC)

From time to time, courts have held a Chief or Council member liable for breach of fiduciary duty where the Chief or Council member participated in their elected capacity in decisions advancing their personal interests.

## **Examples of Breach of Fiduciary Duty**

### **1. Gilbert V. Abbey, 1992 CanLII 921 (BCSC)**

**Facts:** Former Chief Abbey, of Williams Lake Indian Band, participated in council decisions that: 1) provided a mobile home for her use on reserve, 2) authorized payment of her student loans from band funds, and 3) authorized payment of her children's private school fees from band funds.

**Finding:** The court found that Chief Abbey breached her fiduciary duties to the band because she participated in council decisions about matters involving her self-interest and because she failed to declare her self-interest in such matters.

The court noted that had Chief Abbey given council full disclosure of her self-interest and made sure that she did not participate in council's discussion or decisions about such matters, then there would not have been a breach of fiduciary duty.

**Remedy:** The court ordered that Chief Abbey pay funds back to the band on account of housing, student loans, and private school fees.

## **2. Louie v. Louie, 2015 BCCA 247**

**Facts:** Lower Kootenay Indian Band received \$125,000 from the regional district as compensation for use of a road crossing reserve lands. Days later, the band council held an in-camera meeting and voted to pay themselves \$5,000 each from these funds as a retroactive payment for past services. A band member learned of these payments and sued the councillors for breach of fiduciary duty.

**Finding:** The court noted the general rule that a fiduciary is not allowed to profit from its position unless such profit is expressly provided. Band council members are allowed to receive payment for sitting on council, but such payment is authorized in advance by the band's members (e.g., through an approved budgetary process or pursuant to a financial law). The retroactive bonus that council awarded to itself in this case had no such authorization, and the court held that the council members were in breach of their fiduciary duties.

**Remedy:** The court ordered that each councillor pay back \$5,000 to the band.

### ***Council Members' Duty to Avoid Conflict of Interest***

Where a Council Member has a real, potential, or apparent Conflict of Interest, the Council Member will:

- prior to any consideration of a matter giving rise to the Conflict of Interest, disclose to Council the interest and the general nature of the interest;
- not take part in any discussion of, or vote on, such a matter; and
- not attempt to influence the voting on any such matter.

### ***Council Members' Duty to Not Disclose Confidential Information***

Council Members are responsible for keeping confidential discussions and information shared at Council Meetings or committee meetings, and any information or files that are deemed private/confidential.

### ***Council's Responsibility to do Long Term Governance, Planning and Strategizing***

Council must provide leadership in governance, planning and strategizing for STÁUTW, which includes the development, review and monitoring of STÁUTW Laws, STÁUTW By-laws, policies and procedures, and strategic planning, all of which explain what STÁUTW is supposed to achieve, and restrictions on how STÁUTW will manage their programs, lands, resources, and finances. This needs to be the focus of constant, ongoing, critical, and relentless discussion at the Council table.

## ***Council's Legislative Responsibilities***

Council is responsible for the development of STÁUTW Laws and By-laws.

STÁUTW Laws and By-laws set out the standards, procedures and principles that must be followed on STÁUTW Lands and may compel a person to do a certain thing or prohibit a person from doing something. They may create offences and penalties that apply when they are not followed, which can then be enforced in a court.

A STÁUTW Law or STÁUTW By-law must only be developed when:

- it is either needed, or it is anticipated that it will be needed, in order to compel or prohibit some action occurring on STÁUTW Lands; and
- the resources exist to develop it and enforce it.

The Band Manager and STÁUTW Employees are responsible for implementing and enforcing STÁUTW Laws and By-laws.

## ***Council's Responsibility to Develop Policies and Procedures for STÁUTW Operations***

Council is responsible for the development of STÁUTW policies and procedures.

The Band Manager and STÁUTW Employees are responsible for implementing and enforcing policies and procedures.

STÁUTW policies and procedures set out the way STÁUTW Council wants the Band Manager and STÁUTW Employees to interpret and apply STÁUTW Laws and By-laws, manage its internal affairs, or deliver STÁUTW programs and services. Such policies and procedures are intended to assist the Band Manager and STÁUTW Employees in their decision-making to ensure that desired outcomes are achieved.

## ***Council's Responsibilities Re: Planning and Strategizing***

Council is responsible for planning and strategizing for STÁUTW's future. A strategic plan sets out the appropriate strategic directions for STÁUTW, identifying:

- the vision of STÁUTW;
- the mission of STÁUTW;
- the values and beliefs that will guide decision-making within STÁUTW;
- specific goals, objectives and/or initiatives; and
- performance criteria/measures that will enable the Council and its Members to determine objectively whether strategic directions have been achieved.

## ***Council Responsible for Reviewing and Approving STÁUTW's Annual Budget, Financial Plans and Expenditures of STÁUTW Funds***

Every year the Council is responsible under STÁUTW FAL for reviewing and authorizing an Annual Budget and a multi-year financial plan for STÁUTW. These documents should include all STÁUTW's human, financial and capital resources required to meet STÁUTW's goals, which are generally set out in a strategic plan, comprehensive community plan, or other document developed by Council with the help of Members. The Annual Budget and multi-year financial plans determine the resources needed to fulfill the objectives and goals of each STÁUTW department.

Council works directly with the Band Manager to identify relevant funding agencies, and should consider having the identification of funding, applications for funding and reports on funding as performance goals for the Band Manager.

Council is also responsible for authorizing the expenditure of STÁUTW funds in accordance with the STÁUTW FAL, Annual Budget, multi-year financial plan, and funding agreements between STÁUTW and ISC, or STÁUTW and other funding agencies.

To assist in managing how these expenditures are made, Council must ensure adequate financial administration policies are in place. Support and guidance for the creation of financial administration policies is provided by the First Nations Financial Management Board and may require involvement of STÁUTW's legal counsel.

## ***Council Establishment of a Leadership Committee***

Within one year of this Governance Manual coming into effect, Council must establish a Leadership Committee made up of all past Chiefs and Councillors and establish a written terms of reference for that Leadership Committee.

The Leadership Committee may, at the request of and with the approval of Council:

- Examine and provide recommendations regarding proposed laws, by-laws, policies, and procedures before they are approved by Council, and provide Council with a report that sets out their observations, along with any recommendations for Council to consider.
- Conduct studies into important social and political issues facing STÁUTW and report to Council on such matters.
- Provide insight into the TELK,ÇÁNENEN (telling, sharer) Representative structure and assignments of Council Members into those positions.
- Provide historical knowledge about past Council decisions, historical relationships with other governments and third-party entities, and the STÁUTW administration / operations.

- Participate in STÁUTW committees.

## C. PROCESS

### ***TELK,ŲÁNENEN (telling, sharer) Representative Positions / Structure***

Council may establish a TELK,ŲÁNENEN (telling, sharer) Representative structure whereby a Council Member will be delegated specific responsibilities within a specific area of Council's jurisdiction.

### ***Assignment of TELK,ŲÁNENEN (telling, sharer) Representative***

At the beginning of each Council term, Council must appoint one Council Member to each TELK,ŲÁNENEN (telling, sharer) Representative position.

### ***Setting of TELK,ŲÁNENEN (telling, sharer) Representative Mandates***

At the beginning of each term in office, Council must agree to a written mandate for each TELK,ŲÁNENEN (telling, sharer) Representative. The written mandate must:

- set out the objectives that the TELK,ŲÁNENEN (telling, sharer) Representative is directed and authorized to work towards accomplishing.
- provide information on any pressing challenges the TELK,ŲÁNENEN (telling, sharer) Representative will need to address in their role.
- provide the TELK,ŲÁNENEN (telling, sharer) Representative with an overview of their responsibilities and key areas to prioritize and focus on during their term in office.
- authorize the TELK,ŲÁNENEN (telling, sharer) Representative to be Council's eyes, ears, and voice with regard to their key areas of priority and focus.

The written mandate from Council sets out the areas that a TELK,ŲÁNENEN (telling, sharer) Representative is expected to focus on. The written mandate helps TELK,ŲÁNENEN (telling, sharer) Representative know how to prioritize the time they have available to fulfilling their roles as a TELK,ŲÁNENEN (telling, sharer) Representative.



## ***Updating Council on TELK,ÇÁNENEN (telling, sharer) Representative's Activities***

Each TELK,ÇÁNENEN (telling, sharer) Representative must provide rotating updates to Council at regularly scheduled Council Update Meetings on what activities they have participated in and on their progress in achieving their mandates.

## ***Ongoing Professional Development Activities for Council Members***

Council Members must plan for and engage throughout their terms in office in professional development activities that will:

- assist them in achieving the SENĆOTEN language, skills, and knowledge to succeed in achieving Council's Mission and Vision.
- Assist them in succeeding in their roles as TELK,ÇÁNENEN (telling, sharer) Representative, committee members, and community leaders.

There are six steps Council must follow when developing and implementing professional development plans for themselves.

### **1. Establish Purpose and Direction**

- Identify the purpose of your personal development. This includes: gaining an awareness of your current standing and future potential within your chosen field or sector; gaining a measure of what you are good at and interested in ; because these things will motivate you); taking account of the organisational (and sectoral) realities you encounter; linking your plans to organisational (and sectoral) needs as much as possible.

### **2. Identify development needs**

- To identify development needs Council can use various processes such as self-assessment tests, to assess each Council Member's skills and knowledge in a structured way.

### **3. Identify learning opportunities**

- Identify and draw up a list of opportunities to gain the skills or knowledge you need to acquire, update or improve. Compare the list with your current skills and knowledge base and identify any gaps.

### **4. Formulate an action plan**

- Set development objectives for each of the skills and knowledge gaps you identify. These objectives should: be SMART: Specific, Measurable, Achievable, Realistic and Timely; have an element of challenge in them so that they stretch you as an individual and carry you on to new ground; be attainable and viable within a realistic time frame.

### **5. Undertake the development**

- Put your plan into action – what you do and how you do it should be your choice. In addition to training courses you could also take up: work shadowing, secondment, portfolio holder rotations, networking and community involvement.

### **6. Evaluate and review**

- There are two issues you should reflect upon: (1) whether the development activity you have undertaken was appropriate and worthwhile; and (2) whether your skills or ability to be effective on Council have improved as a result and how.



## ***Policy Development, Revision and Rescindment***

When Council decides to develop, revise, or rescind a STÁUTW policy, they must follow the following seven (7) steps:

- **Request to Band Manager (Where applicable):** Where a Department Manager believes it is necessary to develop a new policy or revise or rescind an existing policy, they must make a written request to the Band Manager for approval to initiate the Policy Development Process.
- **Band Manager Decision:** The Band Manager may, on its own initiative or at the request of a Department Manager, decide to initiate the Policy Development Process. At the time this decision is made, the Band Manager must also decide whether to recommend that Council direct, or waive the need for, a community engagement.

### **Options for community engagement are set out in Policy 7: Council and Members.**

- **Research and Drafting / Decision Document:** At the direction of the Band Manager, a Department Manager must either:
  - prepare or cause to be prepared a draft policy.
  - revise or cause to be revised an existing policy.
- **Committee and All Manager Reviews:** Once a Department Manager has prepared or caused to be prepared a draft policy, or revised policy, the Department Manager must:
  - provide the draft policy, or revised policy to All Managers and to any relevant Committees.
  - work with All Managers and any relevant Committees to address any of their concerns about how the draft policy, or revised policy will impact each STÁUTW department.
  - Obtain a recommendation from any relevant Committees on whether to table the draft policy, or revised policy at a meeting of Council.
- **First Reading:** Council must table a draft policy, or revised policy at an Extraordinary Meeting of Council that is arranged specifically for the review of the draft policy, or revised policy and decide on whether to:
  - accept it in principle (with or without minor revisions and/or a community engagement),

- accept in principle subject to major revisions, in which case Council must provide the Department Manager instructions on those revisions.
- reject the draft policy or revised policy, at which time the policy development processes must be discontinued.

**Where a member of Council is unable to attend** a Council meeting at which a First Reading will occur, that member must provide their comments to Council with regard to the draft policy or revised policy prior to the Council meeting.

- **Community Consultation (If required):** If Council has accepted a draft or revised policy, and has directed that a community consultation be completed, the Department Manager must:
  - Unless Council has directed a specific type of community engagement, determine the appropriate type and method of community engagement to undertake, with reference to those options set out in Policy 7: Council and Members.
  - schedule and hold a community consultation to consult with members on the draft or revised policy, and
  - invite members to provide written comments to Council.
- **Final Draft:** After a Department Manager completes all required revisions to a draft or revised policy (and after a community engagement has completed, where required), the Department Manager must ensure that a final draft of the policy or revised policy is prepared.
  - If a community engagement has taken place, the final draft must take into consideration the comments and suggestions from members during the community engagement.
- **Final Reading:** Council must consider the final policy or revised policy and:
  - accept / approve it.
  - direct further changes to it.
  - Reject it.

## D. REFERENCES

None

## POLICY 4: COUNCIL MEETINGS AND DECISION-MAKING

### A. PURPOSE

The Purpose of this Policy is to:

- Provide Council with standard procedures to use when conducting Council Meetings, In-Camera Meetings, and Extraordinary Meeting of Councils.
- Ensure that the operation of STÁUTW and any time sensitive issues are address in a frequent, timely and consistent manner.

### B. POLICY

#### *Definitions*

In this Policy, the following definitions apply:

“Chairperson” means the person who is responsible for calling the Council Meeting to order, maintaining order, and deciding all questions of procedure at the Council Meeting;

“**Council Meeting**” means a regularly scheduled and standing bi-weekly meeting of Council for the purpose of making decisions.

“**Council Update Meeting**” means a regularly scheduled and standing monthly meetings of Council for the purpose of Council:

- receiving updates from the Band Manager, STÁUTW managers, and STÁUTW committees or business entities regarding operational, business, and administrative matters.
- receiving updates from external organizations and entities regarding the status of external relationships, or matters relating to external relationships that do not require a formal Council decision to be made.

“**Extraordinary Meeting of Council**” means a Council Meeting called for the purpose of Council discussing or deciding on an urgent matter that is time sensitive, or another matter that requires a full meeting of Council to complete discussion on.

#### *Attendance*

No Council Member shall be absent from a Council Meeting for three (3) consecutive Council Meetings, Council Update Meetings, or Extraordinary Meetings of Council without receiving approval from Council.

Council Members may attend Council Meetings, Council Update Meetings, or Extraordinary Meetings of Council electronically with the approval of Council.

### ***Legal Requirements for Council Decision Making***

In accordance with section 2(3) of the *Indian Act*, a decision made by Council is only valid if it is consented to by a Quorum of Council at a Council Meeting.

This means that individual Council Members do **NOT** have authority to make decisions unilaterally, unless given authority by the whole of Council to decide on behalf of Council.

All decisions of Council must be made in accordance with this Policy.

### ***Duty of Council to Provide for Procedural Fairness When Making Statutory Decisions***

Council has a legal duty to provide procedural fairness, meaning the Council has a duty to act fairly when making decisions in accordance with a power they have delegated to them through federal laws.

The Council is responsible for providing procedural fairness when:

- exercising a power or making a decision in accordance with a federal law, STÁUTW Law, or STÁUTW By-law; and
- a person's rights, privileges or interests are affected by that decision.

There are two questions Council must ask themselves to determine whether they owe a person a duty of procedural fairness:

1. Is there a specific law that authorizes me to make this decision, or take this action?
2. In making this decision, is the person impacted by it going to have one of their personal rights, privileges or interests impacted?

If the answer is yes to both questions, Council must provide that person procedural fairness.

The duty to provide procedural fairness includes:

- providing notice of the meeting where such a decision is to be made to the person affected by the decision and disclosing the nature of the meeting;
- providing the person with all relevant documents prior to the meeting at which the decision will be determined;

- providing the person with an opportunity to be heard orally or in writing with regard to the decision that is to be made;
- advising the person of the reason for Council's decision and disclosing the factors used in making their decision;

## C. PROCESS

### ***Attendance***

If a Council Member is absent for three (3) consecutive scheduled Council Meetings, In-Camera Meetings, or Extraordinary Meeting of Council without receiving approval from a majority of the Council, then such Council Member will be disqualified and removed from their Council office.

A Council Member who is unable to attend a scheduled Council Meeting, In-Camera Meeting, or Extraordinary Meeting of Council is responsible for notifying the Executive Assistant to Council at least five (5) days prior to such scheduled meeting, stating their reason for being absent.

### ***What are the options for Council when a Chief or a Councillor have not been attending Council Meetings?***

The *Indian Band Council Procedure Regulations* state that no member of a Council may be absent from meetings of the council for three consecutive meetings without being authorized to do so by both the Chief of the band and the consent of a majority of the councillors of the band.<sup>1</sup>

According to the *Indian Act*, the office of a chief or councillor of a band becomes vacant when the Minister of Indigenous Services Canada declares an opinion that the person who holds that office has been absent from three consecutive meetings of the Council without being authorized to do so.<sup>2</sup>

If a Chief or Councillor has missed three consecutive Council meetings without obtaining authorization to be absent, then Council can seek to have that Council Member removed from Council by providing to the Minister of Indigenous Services Canada proof that:

- All Members of Council were advised with advance notice of the three consecutive duly convened meetings of Council, including dates, times, and locations of the Council meetings.<sup>3</sup> Such proof may be in the form of emails, etc. providing notice to Council members of the Council meeting. Neither the *Indian Act* nor the *Indian*

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<sup>1</sup> *Indian Band Council Procedure Regulations*, s 3(2), C.R.C., c. 950

<sup>2</sup> *Indian Act*, at s.78(2)(b)(ii).

<sup>3</sup> *Vollant v Sioui*, [2007] 2 C.N.L.R. 375

*Act Procedure Regulations* set out the requirements for a duly convened meeting, but the BC Supreme Court has said that a duly convened meeting requires:

- The meeting to be called at the request of a majority of Councillors.
  - Advance notice must be given of the meeting to all members of Chief and Council; and
  - The Meeting must be attended by a quorum of the Council.<sup>4</sup>
- The Chief or Councillor missed three consecutive meetings of Council. This may be proven by meeting minutes that show the lack of attendance at the Council meetings of the Chief or Councillor in question.
  - The Chief or Councillor did not have the authorization of Council to miss those three consecutive meetings. This may be proven by documentation showing that at the Council meeting, those Councillors present voted on whether to approve or not approve the missing Chief or Councillor's absence from the meeting. The *Indian Act* requires that this authorization be made by the consent of the majority of the councillors of the Band, present at a meeting of the Council that has been duly convened.<sup>5</sup>

Some things Council may wish to consider in deciding whether to approve a Chief or Councillor's absence include: the reasons for their absence, whether they provided notice that they would not attend the Council meeting, the best interests of the First Nation, and whether there are any prejudicial impacts on Council's ability to fulfill its functions because of their absence.

If Council believes that it is in the best interests of the First Nation to have a Chief or Councillors removed for missing three consecutive meetings of Council, they may contact Indigenous Services Canada and initiate the process for having the Minister of Indigenous Services Canada remove the Council Member who has missed, without authorization, three consecutive Council meetings. They should provide proof of the above-stated matters to the Minister's office and make a written request that the Minister exercise his or her discretion under section s.78(2)(b)(ii) of the *Indian Act* to remove that Chief or Council Member from their seat in office.

Note: It is not clear what the internal process is for the Minister of Indigenous Services Canada when deciding to remove a Chief or Councillor, but for the Minister to comply with the duties of procedural fairness, their process will likely include:

(1) Notice to the Chief or Councillor whose position on Council is at issue, advising that the Minister is considering whether to declare their position vacant

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<sup>4</sup> *Wewayakai Indian Band v. Chickite*, [1998] BCJ No.2775 (BSCS).

<sup>5</sup> *Indian Act*, s. 2(3)(b).

(2) an opportunity for that Chief or Councillor to be heard on the matter, and

(3) an obligation for the Minister to provide written reasons for decision.

This is not necessarily a fast process so consider reaching out to Indigenous Services Canada to learn more about the timeframes and internal processes they follow for such matters before you decide on whether to pursue removal of a Chief or Councillor.

## ***Acceptance of Gifts on Behalf of STÁUTW***

If a Council Member accepts a gift on behalf of STÁUTW, they must:

- Provide a written statement to the Band Manager, advising of the gift, the value of the gift.
- Present that gift to Council at the next Council Meeting, to be treated as the property of STÁUTW.

These requirements come from the *STÁUTW First Nation Financial Administration Law, 2018 – Schedule Avoiding and Mitigating Conflicts of Interest*

## ***Designating the Chairperson for Council Meetings***

The Chief, with the consent of a majority of the Councillors present at the Council Meeting, will be the Chairperson.

If the Chief is absent from a Council Meeting, then a Councillor shall be chosen to act as the Chairperson for the duration of the Council Meeting or until the Chief arrives, by a majority vote of the Council Members present at the Council Meeting.

## ***Timing of Council Meetings, Council Update Meetings, and Extraordinary Meetings of Council***

Meetings must be held:

- For the first Council Meeting of a new Council, within two weeks of the new Council term commencing.
- For regular Council Meetings, bi-weekly, on a pre-set schedule that is agreed to during the first Council meeting of a new Council, for the purpose of addressing all matters of business that require a decision of Council.
- For Council Update Meetings, at minimum monthly, and as needed, on dates set by the Chief in consultation with all Councillors and the Band Manager.

- For Extraordinary Council Meetings, as scheduled by the Chief in consultation with all Councillors and the Band Manager, for the purpose of addressing emergencies and urgent decisions of Council.

### ***Notice of Council Meetings and Preparation of Agendas***

At least ten days before an upcoming Council Meeting or Extraordinary Meetings of Council, the Band Manager must send an email, or text message, to all Council Members and STÁUTW managers inviting them to provide items for the agenda on the upcoming Council Meeting or Extraordinary Meetings of Council.

At least twenty-four hours before an upcoming Council Meeting or Extraordinary Meetings of Council:

- Council Members and STÁUTW managers must provide the Band Manager with all items they wish to have on the agenda at that meeting, along with background information and any band council resolutions that will go before Council in relation to their agenda item.
- The Band Manager must
  - In consultation with the Chief, finalize the agenda for that meeting.
  - Provide a copy of that agenda to each Council Member, as well as to each person whose individual rights, privileges or interests are affected by a decision that Council will make at that Council Meeting or Extraordinary Council Meeting.

### ***All Council Meetings That Require Decisions to be Made Must Have Quorum***

If Quorum is not present within fifteen minutes after the time scheduled for the Council Meeting:

- the Executive Assistant to Council shall call the roll and take the names of the Council Members present at the Council Meeting.
- If the Chief can step in as a decision-maker to achieve quorum, then he or she does so and appoints another person to act as chairperson for that meeting.
- If the Chief cannot step in as a decision-maker to achieve quorum, the meeting shall stand adjourned.



## ***Council Meeting Agendas and Order of Business***

The order of business at each Council Meeting shall be as follows:

- Traditional Opening
- Council Member Attendance Call and Approval of Absences
- Acceptance of / Additions to Agenda, and Agreement on Time Limits for Each Agenda Item
- Conflict of Interest Assessment for all Agenda Items
- Decisions Re: Any Matters to be held In-Camera
- Reading, correcting where needed, and adopting the minutes of the previous Council Meeting. This includes any Council Members' who did not attend having their support or non-support of a decision noted on the formal record
- New business items
- Adjournment.

## ***Order of Agenda at Council Update Meetings***

Council Update Meetings provide Council Members time to:

- share a meal and check in with one another, support one another in their roles.
- keep apprised of STÁUTW operations and maintain both internal and external relationships that are pertinent to the success of STÁUTW operations.

The business at each Council Update Meeting will be conducted as follows:

- Traditional Opening
- Council Member Attendance Call and Approval of Absences
- Acceptance of / Additions to Agenda, and Agreement on Time Limits for Each Agenda Item
- Conflict of Interest Assessment for all Agenda Items
- Decisions Re: Any Matters to be held In-Camera
- Council Member Check Ins with one another and sharing of a meal

- Band Manager Report
- TELK,ÇÁNENEN (telling, sharer) Representative Reports
- Committee Representative Reports – Standing Committees, Special / Ad Hoc
- External Portfolios and Relationships – as time permits
- Managing Council Member Report Re: Band Manager Employee Matters

## ***General Rules of Debate at Council Meetings and Extraordinary Meetings of Council***

No Council Member may speak until recognized to do so by the chairperson.

All discussion must be relevant to the immediately pending question / decision to be made.

No Council Member may speak a second time until every Council Member who wishes to speak has had the opportunity to do so.

No Council Member can speak more than two times on a motion.

No Council Member can speak for more than five minutes on a motion.

All remarks must be addressed to the chairperson – no cross debate is permitted.

## ***Council Decisions at Council Meetings***

All questions before the Council shall be decided by a majority vote of the Council Members present at a Council Meeting.

## ***Matters Council Must Consider When Making Decisions***

- Am I in a conflict of interest regarding this decision?
- What are the needs of STÁUTW - physically, spiritually, mentally?
- How do we approach this in the best interests of Members, and taking into consideration?
  - NETOLNEW / NUTSA' MAAT SHQWALUWUN (one heart, one mind)
  - ÁTOŁ (Respect for the rights of others)
  - ŁILEÇ (Interconnectedness)
  - U STOTEMTES (Reciprocity)

- ÍY ŚWĶÁLEØEN and SDIWIEŁ (good intentions and prayer)
- How will the decision we are making affect Á,LEÑENEØ ŁTE (Our Homeland)?
- What do the teachings of XÁLS (the Creator) tell us about making this decision?
- Are there other words in the SENĆOTEN language that can help us think about this topic differently? Do we need to engage our language speakers to know this?
- What does our ĆELANEN say about this topic?
- What are the stories of our elders and knowledge keepers, and how do they apply?
- What are the longhouse practices that apply?
- Do we have the power/legal authority to the make the decision? Where does that power / legal authority come from?
- What rules apply to this decision? Legislation? Regulations? Bylaws? Policy? Procedures? Guidelines?
- Do we understand the rules relevant to the decision we are making? If we don't understand the rules, who does?
- Do we have all the information that we need to make this decision? If not, who can we get it from and how can we get it?
- Have we provided the persons who are affected by this decision with:
  - Adequate notice of the impending decision with sufficient time to prepare a response?
  - Information about the decision-making criteria Council will use in relation to this decision.
  - The information or evidence that we will use to make the decision so they can respond and present any contrary information?
  - An opportunity to have their information considered as part of the decision-making process?

## ***Minutes of the Council Meeting***

The Governance Admin Support Staff is responsible for taking minutes at every Council Meeting, including at Extraordinary Meetings of Council

The minutes shall:

- provide a summary, not verbatim transcripts, of Council discussions.
- reflect that Council deliberated before deciding, which might include documentation of a summary of the options considered, or pros and cons raised.
- identify any motions made, and the outcome of any votes taken, or consensus reached, but not identify how the vote was split in a majority decision, or how individual Council Members voted, unless a Council Member asks their vote to go on record in which case that person's vote shall be documented.

## ***Storage of, and Access to, Council Meeting Minutes***

The Governance Admin Support Staff shall store all Council Meeting minutes both in a secure area and on a cloud-based computer system that is password protected.

Members have a right to access and view Council Meeting minutes, and upon request to the Band Manager, the Band Manager shall provide a Member access to view Council Meeting minutes.

Members do NOT have a right to take photos of Council Meeting minutes, or to record them in any manner.

## ***Council Meetings Open to Members***

All Council Meetings are open to Members for in-person attendance, except for in-camera parts of Council Meetings, which can only be attended by Members who are directly impacted by the decision being made by Council on that in-camera agenda item.

Members who attend Council Meetings are allowed to do so only as silent observers and have no rights to speak at the Council Meeting.

The Chairperson may expel or exclude a Member from a Council Meeting if that Member causes a disturbance at the Council Meeting.

## ***Extraordinary Meeting of Council***

An Extraordinary Meeting of Council must only be summoned:

- Either by the Chief, on their own initiative, or at the request of most Councillors.
- When necessary for the purpose of making decisions that cannot wait until the next regularly scheduled Council Meeting.
- With no less than 24 hours' notice to all Council Members.

## ***In Camera Sessions at Chief and Council Meetings***

Council may approve a motion to order that a portion of, or whole, Council Meeting be held in camera if Council is satisfied that either:

- the order is necessary to address a conflict of interest of the Chief or a Councillor.
- the order is necessary to maintain the confidentiality of information relating to human resources, including Council's oversight of the Band Manager's employee performance.
- the order is necessary to protect the privacy of an individual Member, whose private interests outweigh the interests of all Members in transparent leadership by Council.
- the order is necessary to protect the safety of a person.

Where Council approves a motion for an in-camera, the reasons for that decision shall be documented in the Council Meeting minutes.

## ***In Camera Session Meeting Minutes***

The chairperson shall appoint someone to take separate minutes at an in-camera session that:

- set out the names of those persons who attended the in-camera session.
- set out the names of any person who is granted permission by those in attendance at the in-camera session to view the minutes.
- provide a summary, not verbatim transcripts, of discussions.
- reflect that Council deliberated before deciding, which might include documentation of a summary of the options considered, or pros and cons raised.

- identify any motions made, and the outcome of any votes taken, or consensus reached but not identify how the vote was split in a majority decision, or how individual Council Members voted, unless a Council Member asks their vote to go on record in which case that person's vote shall be documented.

### ***Storage of, and Access to, In Camera Session Meeting Minutes***

The Band Manager shall store all in camera Council Meeting minutes in a secure area or computer system.

Unless required to do so by law, the Band Manager shall not allow anyone who is not a Council Member, except those persons who were privy to the in-camera session and who are granted permission by those in attendance at the in-camera session, access to in-camera meeting minutes.

### ***Delivery of Council Meeting Minutes to Council Members***

The Band Manager must ensure formal minutes of Council Meetings are distributed to the Council no later than forty-eight (48) prior to the next Council Meeting.

## **D. REFERENCE**

In addition to this Policy, you may wish to refer to:

- *Indian Band Council Procedure Regulations*, C.R.C., ch. 950
- Roberts Rules of Order

## POLICY 5: COUNCIL AND THE BAND MANAGER

### A. PURPOSE

The purpose of this Policy is to:

- provide Council with guidance in their selection of the Band Manager and management of the Band Manager; and
- ensure the roles and responsibilities of the Band Manager are clear and transparent.

### B. POLICY

#### *Role of Council*

Council has only one employee, the Band Manager, who supervises the STÁUTW Employees.

All authority and accountability of STÁUTW Employees are the sole responsibility of the Band Manager.

Council is only responsible for, and only has authority over:

- establishing governance and limitations policies to provide reference and direction to the Band Manager.
- establishing and maintaining the Band Manager employment contract that sets out key terms of employment.
- establishing governance plans and strategies for STÁUTW that include vision, goals, and objectives.
- the supervision, coaching, performance reviews, encouragement, professional development, mentoring and support the Band Manager **through a Managing Council Member**.

Council is NOT responsible for and does NOT have the power to manage the day-to-day operations of STÁUTW. The day-to-day management of STÁUTW operations is the responsibility of the Band Manager, who must act in accordance with STÁUTW Laws, STÁUTW By-laws, policies, and procedures, as set out by Council.

Council must balance leaving operational control with the Band Manager while keeping themselves informed about operational issues, so the Council can make governance decisions on what needs to be done.

## ***Appointment of Managing Council Member***

Council speaks with one voice and only Council can provide direction to the Band Manager. **Any directions for the Band Manager must come through a policy, Council directive, or BCR.**

Council must appoint one Council Member to be responsible for delivering the voice of Council to the Band Manager, and that person will be known as the Managing Council Member.

When deciding who to appoint as the Managing Council Member, Council should consider which Council Member is best suited to act in an oversight position. Some considerations may include whether the person has the following skills:

- Promoting empowerment - this involves knowledge and skills in using processes such as delegation and information sharing to enhance subordinate ownership and empowerment over their task and performance.
- Solving problems creatively - this involves knowledge and skills in fostering creative problem solving in the organization through critical reflection, problem analysis, risk assessment and rewarding innovation.
- Communicating effectively - this involves good presentation skills (verbal and written), careful listening, problem framing and use of presentation technologies.
- Developing people - this involves knowledge and skills such as mentoring, performance evaluation and feedback, career planning and coaching to enhance subordinates' growth and development.
- Seeking and using feedback – this involves knowledge and skills of seeking and using feedback from others to improve one's performance and authenticity. This requires active listening and modeling personal change to create trust
- Handling crisis – this involves preventing a crisis by paying attention to warning signs, involving the appropriate people when planning a response to the crisis (or in anticipation of it)

If there are no Council Members with the education or experience required to successfully fulfill the role of Managing Council Member, Council may consider hiring a consultant to undertake this role or putting a Council Member through training to support them in fulfilling this role.

On a regular basis, Council must review the work of their Managing Council Member to determine whether that person needs support or training, whether that person is best suited for the role, and whether the person who is in that role should be changed to ensure that all Council Members have opportunities to develop their management skills.



## ***Council NOT a Dispute Resolution Body When Members Unhappy with Decisions Made Within STÁUTW Administration***

Council must respect the Band Manager' choices and decisions so long as they fit within the STÁUTW Laws, STÁUTW By-laws, and STÁUTW policies and procedures.

However, there may be times where STÁUTW policies are not fulfilling the needs of Members. When this happens, with or without the recommendation of the Band Manager, Council may wish to add or rescind areas of a policy.

## ***Band Manager Responsibilities***

The Band Manager is accountable to Council for ensuring all STÁUTW Employees act in accordance with the laws, by-laws, policies and procedures of STÁUTW, and must report regularly and promptly to the Managing Council Member regarding issues that are relevant to the Band Manager' responsibilities.

The Band Manager, on behalf of STÁUTW, is responsible for the:

- management of the overall administration and operations of STÁUTW in accordance with STÁUTW Laws, STÁUTW By-laws, Policies & Procedures, and Plans.
- management and providing direction to STÁUTW Employees; and
- ensuring the Council's decisions are implemented.

The Band Manager is granted authority by Council to manage the STÁUTW Employees and the operations of STÁUTW, subject to STÁUTW Laws, STÁUTW By-laws, policies, and procedures.

The Band Manager acts as necessary to achieve the outcomes established by Council.

## ***Band Manager Job Description***

Council must maintain a job description for the Band Manager position, which includes the salary bar for that position, and a summary of the Band Manager' areas of authority, their responsibilities regarding how they report to Council, and their responsibilities as set out by the Council, which may include:

- **STÁUTW Law, STÁUTW By-law, and policy management**, which may include ensuring the maintenance of a register of laws, by-laws, and policies; the implementation of those laws, by-laws, and policies; or where necessary making recommendations to Council on the development of new laws, by-laws and policies, or amendments to existing law, by-laws, and policies;

- **Strategic Planning**, which may include ongoing reviews and reporting to the Managing Council Member on internal and external matters that may affect STÁUTW (for example, resource constraints, changes in funding policies); supporting Council in the development of goals, strategies, and plans; identifying resources to achieve goals; or communicating with Members to identify their changing needs;
- **Visioning**, which may include working with Council and Members to review and revise the STÁUTW vision.
- **Leadership**, which may include team building, and the encouragement of STÁUTW Employees to achieve STÁUTW goals.
- **Program Management and Reporting**, which may include implementing and preparing reports for programs, services and activities that are funded by INAC, such as education, governance, infrastructure and housing, lands and economic development, and social programs.
- **Personnel management**, which may include interpreting STÁUTW policies and procedures for STÁUTW Employees; hiring, supervising, evaluating, and releasing STÁUTW Employees; training and motivating STÁUTW Employees; setting goals for STÁUTW Employees and supporting STÁUTW Employees in achieving those goals; assisting STÁUTW Employees in skill development for their success within STÁUTW; or providing regular and constructive feedback to STÁUTW Employees;
- **Financial management**, which may include duties and responsibilities set out in STÁUTW FAL, or in STÁUTW financial policies; providing the Managing Council Member with regular updates on STÁUTW revenues and expenditures; administering STÁUTW funds in accordance with a Council approved budget; and working with the STÁUTW Finance Committee; as well as identifying and applying for funding opportunities.
- **Risk Analysis**, which may include evaluating and reporting to the Managing Council Member on potential risks and opportunities for STÁUTW; assessing potential threats to STÁUTW's public image and risks to STÁUTW's financial security; or reporting to the Managing Council Member on STÁUTW progress in the delivery of its programs, services, and activities;
- **Leadership and Advocacy**, which may include promoting STÁUTW mission and vision; participating in networking activities on behalf of STÁUTW; building relationships with external stakeholders; or communicating the activities and direction of STÁUTW to Members; and
- **Communication and Reporting Protocols Between Council and the Band Manager**, which may include regular attendance and oral or written reporting at Council meetings.

## ***Band Manager Contract of Employment***

Council must ensure there is a signed contract of employment for the Band Manager, setting out:

- length of the employment term, including any probationary period.
- the job description of the Band Manager.
- compensation and benefits, including salary, bonuses, incentives, and overtime pay, pension, vacation days, leave entitlements, health insurance plans, travel, and expense reimbursements.
- expected hours of work; and
- termination of employment for with and without cause, and a description of “cause”.

## ***Hiring a Band Manager***

Council must take the following steps when hiring the Band Manager:

- identify any specific challenges faced by STÁUTW and identify any specific knowledge, skills, attitudes, and experience that will be required in the new Band Manager to address those challenges.
- review the Band Manager’s salary and benefits package, and where necessary compare it to other similar organizations to determine whether changes need to be made. If unable to increase salary based on financial situation, consider other benefits that can be offered, such as: increased holiday time, flex days.
- review, revise if necessary, and approve the Band Manager’s Job Description.
- decide where the job will be posted, where job applications will be sent, who will prepare copies of the applications for Council Members, who will book interviews and write and send out rejection letters.
- create interview questions, keeping in mind how the candidate is expected to demonstrate they have the skills, qualities, and experience to meet STÁUTW’s specific challenges, and decide ahead of time how you will rate the answers. For example, are there specific things you want to see in an answer that people will get marked on.
- consider using a written test or requesting a copy of a written work sample to assess the written language skills of the candidates.
- prepare and post the job posting.

- eliminate and respond to applicants who do not meet the basic requirements.
- rank candidates who meet basic requirements and identify who to interview.
- schedule and hold interviews asking the same questions of each applicant; and
- make offers and enter a contract for employment.

### ***Orientation of the Band Manager***

As soon as practicable after a new Band Manager is appointed, the Managing Council Member must:

- announce the appointment of a new Band Manager by introducing them to STÁUTW Employees, Committee Members, and Members.
- ensure the Band Manager knows who to contact for information regarding their responsibilities, such as key ISC contacts, STÁUTW contacts, etc; and
- ensure the Band Manager has a copy of this Governance Manual and the Council Orientation Manual.

### ***Band Manager Employee File***

The Managing Council Member must maintain an employee file for the Band Manager containing:

- the Band Manager' signed employment contract.
- the written performance goals for the Band Manager.
- written notes of all communications between the Managing Council Member and the Band Manager regarding the Band Manager' performance goals; and
- documentation of all disciplinary measures taken in relation to the Band Manager' employment with STÁUTW.

### ***Setting Performance Goals for the Band Manager***

It is impossible to measure the performance of a Band Manager without determining in advance how that performance will be measured. Council and the Band Manager must work together to agree on what STÁUTW is trying to accomplish in a given year, and what their respective roles are in achieving those results. By working together, Council and the Band Manager will be able to establish goals that are reasonable to achieve.

At the beginning of the Band Manager' employment contract, and on or before each annual anniversary of the Band Manager' start date:

- Council must establish proposed annual goals and key expectations for the Band Manager.
- the Managing Council Member must negotiate final performance goals with the Band Manager, which will be monitored on a regular basis; and
- Council and the Band Manager must agree in writing to the expectations for the Band Manager' performance.

When setting performance goals for the Band Manager, Council must ensure that the performance goals:

- meaningfully relate to the strategic plans, community plans, etc. of STÁUTW.
- meaningfully relate to the professional development goals of the Band Manager; and
- are **S.M.A.R.T.**, meaning each one is Specific, Measurable, Attainable, Relevant and Timely:
  - **Specific:** What exactly does Council want the Band Manager to achieve? The more specific the description, the bigger the chance Council will get exactly that. Questions Council may ask when setting goals and objectives are: What exactly do we want to achieve? Where? How? When? With whom? What are the conditions and limitations? Why exactly do we want to reach this goal? What are possible alternative ways of achieving the same?
  - **Measurable:** Measurable performance goals means that Council can identify exactly what it is Council will see, hear, and feel when the Band Manager reaches the goal. It means breaking the goal down into measurable elements that can be assessed based on the existence of concrete evidence of the Band Manager' actions or inactions.
  - **Attainable:** Is the goal for the Band Manager attainable? This requires investigating whether the goal really is achievable, taking into consideration the effort, time, and other costs of achieving goal, as well as the other obligations and priorities Council has. If STÁUTW does not have the time, money, or personnel resources to reach a certain goal then the goal will certainly fail. This means looking at whether a goal is achievable within the annual budget will be important.

- **Relevant:** Is reaching the goal relevant to the needs of STÁUTW? The main questions to ask here are: why does Council want to reach this goal? What is the objective behind the goal, and will this goal really achieve that?
- **Timely:** This requires consideration of the deadlines for the Band Manager to achieve the goal. Keep the timeline realistic and flexible, that way you can keep the Band Manager's morale high.

### ***Day-to-Day Oversight of Band Manager***

The Managing Council Member must:

- act as the principal contact person between the Council and the Band Manager.
- encourage all Council Members to provide feedback to the Managing Council Member regarding the Band Manager on an as needed basis.
- where the Band Manager requires urgent assistance from Council, provide such assistance to the Band Manager.
- provide feedback to the Band Manager regularly throughout the year.
- establish and maintain with the Band Manager a regular schedule of private check-in meetings to:
  - assess the Band Manager's progress towards meeting their performance goals.
  - identify any barriers that may prevent the Band Manager from accomplishing their performance goals, and plan with the Band Manager on how to overcome those barriers.
  - where barriers are identified and plans to overcome them are made, follow up with the Band Manager on how the plans are going.
  - share feedback with the Band Manager on progress related to their performance goals, including:
    - positive feedback regarding the Band Manager's achievements, and
    - constructive feedback alerting the Band Manager to areas in which their performance could improve, with a focus on the actions of the Band Manager, not on the Band Manager as a person.
  - identify any changes that may be required in the Band Manager's performance goals because of a shift in STÁUTW's priorities.

- determine whether extra support is required from Council to assist the Band Manager in achieving their performance goals; and
- maintain clear documentation in the Band Manager' Employee File of all meetings with the Band Manager, including topics discussed, plans made, and outcomes.

### ***Council Oversight of the Band Manager***

At each Council Update Meeting:

- the Managing Council Member must provide Council an update on his or her oversight activities regarding the Band Manager.
- The Band Manager must:
  - report directly to Council on STÁUTW's implementation of STÁUTW Laws, STÁUTW By-laws, policies, and procedures; and
  - inform Council of any developments affecting STÁUTW's mandate or achievement of goals and objectives set out in STÁUTW's strategic plan.

### ***Performance Reviews of the Band Manager***

On at least an annual basis, and on a schedule agreed to between the Managing Council Member and the Band Manager, the Managing Council Member and one (1) other Council Member must conduct a performance review of the Band Manager.

During that performance review, they must:

- meet with the Band Manager to review his or her performance goals and determine whether each performance goal has been achieved, as well as any accomplishments, or shortfalls.
- document challenges encountered during the year and identified areas for training and or development that the Band Manager will require to overcome those challenges;
- collaboratively create a professional development plan for the Band Manager for the upcoming year; and
- identify unforeseen barriers to the achievement of the Band Manager' performance goals that must be addressed by Council.

### ***Council Consideration of Band Manager's Salary Increase and Professional Development Plan***

Council has exclusive discretion regarding whether the Band Manager will have a raise in salary following a favourable performance review, and on approval of the Band Manager's Professional Development Plan.

In deciding on whether to grant a raise in salary for the Band Manager, Council must consider:

- whether a raise in salary will fall within the salary bar in the Band Manager' job description.
- whether STÁUTW's budget has room for inclusion of a raise in the Band Manager' salary; and
- current market rates for pay for Band Manager in similar size First Nation communities.

### ***Corrective Actions / Progressive Disciplinary Measures***

**Council must not dismiss the Band Manager for cause without first obtaining legal advice confirming that STÁUTW has grounds to dismiss the Band Manager for cause, or Council decides at an in-camera Council Meeting, having received legal advice on the proposed dismissal, to dismiss the Band Manager without cause.**

Unless Council decides to terminate the Band Manager' employment contract without cause, then the Managing Council Member must engage a progressive discipline approach to correcting a Band Manager' unacceptable conduct and behaviours before dismissing the Band Manager for cause.

A progressive discipline approach involves the following four steps:

- 1) verbal warning.
- 2) written warning.
- 3) suspension; and
- 4) dismissal.

Although generally all four steps of the progressive discipline process must be followed in order, a serious incident of unacceptable conduct or behaviour may be grounds for Council to bypass steps in the progressive discipline process, up to and including dismissal.



## 1) Documented Verbal Warning

Generally, the Managing Council Member should address the first incident of unacceptable conduct or behaviour by the Band Manager with a verbal warning.

Where the Managing Council Member considers giving a verbal warning to the Band Manager, the Managing Council Member must:

- A. hold a private meeting with the Band Manager.
- B. provide the Band Manager with an explanation of when and how the unacceptable conduct or behavior allegedly took place.
- C. provide the Band Manager with a description of the desired conduct or behavior.
- D. provide the Band Manager an opportunity to explain the situation and their actions.
- E. **obtain approval from Council** to give the Band Manager a verbal warning; and
- F. if giving the Band Manager a verbal warning, inform them they are getting a verbal warning and that further disciplinary action, up to and including dismissal, may follow if the unacceptable conduct or behavior continues; and
- G. make a note in the Band Manager's Employee record setting out:
  - that the Band Manager has been provided with a verbal warning.
  - a statement of the facts, setting out the unacceptable conduct or behavior related to the verbal warning.
  - the date of the meeting with the Band Manager; and
  - a summary of the meeting with the Band Manager.

## 2) Written Warning

Where the Band Manager has been provided a verbal warning regarding unacceptable conduct or behavior, and the unacceptable conduct or behaviour continues to occur after they have been provided a reasonable opportunity to correct it, the Managing Council Member may – **AFTER OBTAINING APPROVAL FROM COUNCIL TO DO SO** – provide the Band Manager a written warning that sets out:

- a statement of the facts, setting out the unacceptable conduct or behaviour.
- a description of the desired conduct or behaviour.

- a description of previous warnings regarding the Band Manager' unacceptable conduct or behavior.
- a statement that Council is giving the Band Manager a written warning; and
- a statement that should the unacceptable conduct or behaviour continue, the Band Manager may be subject to further disciplinary action, up to and including dismissal.

The Managing Council Member must ensure the Band Manager signs the written warning, indicating they have received it. Where the Band Manager refuses to sign a written warning, the Managing Council Member must make a note on the written warning setting out that the Band Manager refused to sign it and the date on which the Managing Council Member sought to obtain the Band Manager' signature on it.

The Managing Council Member must ensure that a copy of the written warning, signed by the Band Manager, or marked by the Managing Council Member, is provided to the Band Manager, and that another copy is placed in the Band Manager' Employee file.

### 3) Suspension

Where the Band Manager has been provided a written warning regarding their unacceptable conduct or behaviour and that unacceptable conduct or behaviour continues to occur after the Band Manager has been provided a reasonable opportunity to correct it, the Managing Council Member may – **AFTER OBTAINING APPROVAL FROM COUNCIL TO DO SO** – suspend the Band Manager by providing the Band Manager with a written notice of suspension which must include:

- a statement of the facts, setting out the unacceptable conduct or behavior.
- the desired conduct or behavior.
- a description of previous warnings regarding the Band Manager' unacceptable conduct or behavior.
- the effective date of the suspension.
- the duration of the suspension.
- the reason(s) for the suspension; and
- a statement that repetition of the unacceptable conduct or behavior may result in further disciplinary actions up to and including dismissal.

## 4) Dismissal:

Where the Band Manager has been provided a suspension regarding their unacceptable conduct or behaviour and that unacceptable conduct, or behaviour continues to occur after the Band Manager has been provided a reasonable opportunity to correct it, the Managing Council Member may – **AFTER OBTAINING APPROVAL FROM COUNCIL TO DO SO AND ADVICE FROM LEGAL COUNSEL**– dismiss the Band Manager.

## ***Bullying and Harassment***

Where a Council member becomes aware that the Band Manager is allegedly engaged in bullying or harassment, they must put the matter before Council immediately, and Council must initiate a bullying and harassment investigation into the conduct of the Band Manager.

Although the Managing Council Member may conduct the bullying and harassment investigation, Council should consider engaging either a human resources consultant or STÁUTW's legal counsel to undertake the bullying and harassment investigation.

Council is also responsible for ensuring that the Band Manager is protected against bullying and harassment from others. Where the Band Manager is being bullied or harassed, Council must take affirmative steps to prevent or minimize that bullying and harassment from continuing.

The Band Manager is responsible for letting Council know when they are being bullied and harassed. This includes telling Council as much information as possible about the bullying and harassment, such as the names of people involved, witnesses, where the events occurred, when they occurred, and what behaviour and/or words were shared. The Band Manager must also provide Council with any supporting documents, such as emails, handwritten notes, or photographs related to the bullying and harassment. Physical evidence, such as vandalized personal belongings, can also be submitted.

## **C. REFERENCES**

In addition to this Policy 3, Council should consult the following resources:

- Bullying and Harassment Policy in the STÁUTW Human Resources Manual.
- Part III of the *Canada Labour Code*, (R.S.C., 1985, c. L-2), and the Federal Labour Standards Government of Canada website.
- *Canadian Human Rights Act* (R.S.C., 1985, c. H-6), and the Canadian Human Rights Commission website, in particular the section on Employer Obligations.
- *Workers Compensation Act*, [RSBC 1996] Chapter 492, Part - Occupational Health and Safety, and the WorkSafe BC Website.

## POLICY 6: COUNCIL AND STÁUTW EMPLOYEES

### A. PURPOSE

The purpose of this Policy is to set out the way Council must respond to complaints regarding the actions of STÁUTW Employees and decisions made by STÁUTW Employees.

### B. POLICY

#### ***Definitions***

“complaint” includes:

- a concern expressed about conduct or service, which may relate to a failure to provide information, conduct of staff, the unfairness or unreasonableness of a decision, and so on, or
- a request for a review of a decision on an earlier complaint

#### ***Duty to Establish Human Resources Policies and Procedures Applicable to all STÁUTW Employees***

Council must establish Human Resources Policies and Procedures that are applicable to all STÁUTW Employees.

#### ***Council Members NOT Authorized to Direct STÁUTW Employees (Except the Band Manager)***

Council Members are not authorized to direct STÁUTW Employees under any circumstances.

#### ***Reporting to Managing Council Member Re: Complaints About STÁUTW Employees***

Where a Council Member has or receives from another person a complaint regarding the actions or a decision of a STÁUTW Employee, the Council Member must bring that complaint to the Managing Council Member, in the form of an email that sets out:

- A clear description of the service deficiency identified by the Council Member or reported to them; and
- The outcome the Council Member or person who reported the issue to that Council Member is seeking.

## ***Duties of Managing Council Member Re: Complaints About STÁUTW Employees***

Where the Managing Council Member receives a concern from another Council Member regarding a STÁUTW Employee the Managing Council Member:

- Must immediately advise the Council Member who makes the complaint:
  - that the complaint has been received.
  - details regarding when the Managing Council Member plans to address the complaint with the Band Manager; and
  - details regarding when the Band Manager will be expected to report back, and the way they will be expected to report back.
- Must meet in private with the Band Manager to advise the Band Manager of the complaint and discuss:
  - The nature and seriousness of the complaint.
  - The STÁUTW laws, by-laws, policies, and procedures that are relevant to the issues raised in the complaint.
  - Any need for urgent action – for example where there is an immediate risk of harm at issue.
  - Any sensitive issues at play in the complaint; and
  - Any time limits for the Band Manager to report back to the Managing Council Member or Council on the actions they've taken to resolve the complaint.

The Managing Council Member must NOT advise the Band Manager of who brought the complaint forward, unless doing so is necessary in order for the Band Manager to resolve the complaint.

- May require the Band Manager to report back to the Managing Council Member, or directly to Council, on how the concerns have been responded to or resolved.

The STÁUTW Human Resources Policy Manual must be followed by the Band Manager in responding to a complaint about a STÁUTW Employee.

## ***Band Manager Report on Complaint Outcomes***

When the Band Manager is required to report back on the outcome of a complaint, that report must include:

- An overview of the complaint.
- STÁUTW Laws, By-laws, etc. relevant to the complaint.
- The steps the Band Manager took to investigate or otherwise resolve the complaint.
- The outcome, including a report on whether what the Council Member who brought the complaint forward wanted could be achieved, and if not the reasons for why that outcome was either not available or not achievable.

### ***Options for Managing Council Member / Council When Band Manager's Response Not Adequate***

Where either the Managing Council Member, or Council, determine that the Band Manager is not adequately responding to or resolving concerns regarding a STÁUTW Employee, Council must meet to consider whether:

- the Band Manager requires support and guidance in implementing one of STÁUTW's operational policies, including STÁUTW's Human Resource Policy Manual; or
- there's a need for progressive disciplinary actions against the Band Manager.

### ***Council Members Must Encourage Open Dialogue Between STÁUTW Employees and Members.***

Council must encourage STÁUTW Employees to communicate openly with Members about policies, programs, services, and initiatives they are familiar with and for which they have responsibility. Openness promotes accessibility and accountability. It enables informed Member participation in the formulation of policy, ensures fairness in decision making, and enables Members to assess performance.

### ***STÁUTW Employee Concerns Re: Band Manager***

Where a STÁUTW Employee has concerns regarding the Band Manager, they may bring those concerns directly to the Managing Council Member.

If a STÁUTW Employee brings their concerns regarding the Band Manager to a Councillor, that Councillor may support the STÁUTW Employee in bringing the concerns directly to the Managing Council Member for resolution.

## **C. REFERENCES**

In addition to this Policy, Council should consult STÁUTW's Employee Human Resource Policy Manual.

## POLICY 7: COUNCIL AND MEMBERS

### A. PURPOSE

The purpose of this Policy is to set out clear rules and procedures regarding Council's interactions with Member, the types of concerns Members may bring directly to Council, and the way Council must respond to those concerns.

### B. POLICY

#### ***Council Duty to Provide Members Information Regarding STÁUTW Governance***

Council must provide Members with timely, accurate, clear, objective, and complete information about STÁUTW Laws, By-laws, policies, programs, services, and initiatives.

Council must make reasonable efforts to inform Members of the Council's priorities for STÁUTW. Such information is necessary for Members to participate actively and meaningfully in STÁUTW affairs.

#### ***Manner of Communicating with Members***

Information must be accessible so Members may be aware of, understand, respond to, and influence the development and implementation of laws, by-laws, policies, programs, services, and initiatives.

Council must use a variety of ways and means to communicate and provide information in multiple formats to accommodate diverse needs and ensure equal access.

The needs of all Members, whose perceptual or physical abilities and language skills are diverse, must be recognized and accommodated.

All means of communication – from traditional methods to new technologies – must be used to reach and communicate with Members wherever they may reside.

#### ***Engaging Members to Obtain Their Views and Understand Their Needs***

Council must engage with, listen to, and take account of Member's interests and concerns when establishing priorities, developing policies, and planning programs and services.

Council's obligation to engage with Members is consistent with the right of Members to address and be heard by Council. Listening to Members, researching, evaluating, and addressing the needs of Members is critical to the work of Council.

It is important for Council to learn as much as possible about Member's needs and expectations to respond to them effectively.

The dialogue between Members and Council must be continuous, open, inclusive, relevant, clear, secure, and reliable. Communication is a two-way process.

***Individual Council Members MUST NOT Unilaterally Make Decisions in Response to Member's Concerns Regarding the Administration of STÁUTW***

Individual Council Members must not make unilateral decisions about complaints brought forward by Members. Council decisions can only be made by Council at a duly convened meeting of Council.

***Matters That Council Has Authority to Make Decisions On***

Council may review and make decisions regarding requests from Members on:

- any matters that Council has specific authority to make decisions regarding, as set out in:
  - federal laws such as, the *Indian Act*, *First Nations Fiscal Management Act*, *First Nations Lands Management Act*, or *Family Homes on Reserves and Matrimonial Interests Act*; and
  - STÁUTW Laws, STÁUTW By-laws, or policies and procedures.
- the development of new policies and procedures for STÁUTW, and amendments to existing policies and procedures for STÁUTW.
- Member complaints regarding bullying, harassment, and other inappropriate behavior towards Members from the Band Manager.
- Member complaints regarding the Band Manager acting either without authority, or beyond the Band Manager's authority under STÁUTW Laws, STÁUTW By-laws, or policies and procedures.
- Member complaints regarding the Band Manager either refusing to apply, or failing to correctly apply STÁUTW Law, STÁUTW By-law, or policies and procedures.

***Matters That Council Does NOT Have Authority to Review or Make Decisions On***

Council MUST NOT review or make decisions regarding complaints about any of the following matters, because such matters fall within the exclusive authority of the Band Manager to review and respond to:

- bullying, harassment, or other inappropriate behavior towards Members from STÁUTW Employees, other than the Band Manager.



- STÁUTW Employees, other than the Band Manager, acting without authority, or beyond their authority under STÁUTW Laws, STÁUTW By-laws, policies, and procedures; or
- STÁUTW Employees, other than the Band Manager, either refusing to apply, or failing to correctly apply STÁUTW Law, STÁUTW By-law, policies, or procedures.

### ***Duty to Communicate with Members***

Within one year of this Governance Manual coming into force, Council must develop and start to implement a Council Communication Plan that sets out:

- What information regarding activities of Council will be communicated to Members?
- Who is responsible for delivering information to Members about the activities of Council; and?
- How that information will be delivered to Members.

Council must host Quarterly Community Meetings to provide Members with updates about:

- Major decisions made by Council in the past quarter.
- TELK,ČÁNENEN (telling, sharer) Representative updates from the past quarter.
- Committee updates from the past quarter.

Quarterly Community Meetings may be held virtually.

## **C. PROCESS**

### ***Responding to Members Regarding Matters Council Has Authority to Make Decisions On***

Where a Member brings a request forward to an individual Council Member regarding a matter that Council has exclusive authority to review and make decisions on, that Council Member must:

- listen to and document the Member's request, including information relating to "who, what, when, where, and how";
- advise the Member that individual Council Members do not have authority to make unilateral decisions regarding requests from Members because Council must act

as a whole, but that their request will be brought forward to the whole of Council for a review and decision to be made.

- place the Member's request on the agenda for the next scheduled Council Meeting, or if the Member's request is urgent, arrange an Extraordinary Meeting.
- inform the Member who brought forward the request:
  - of the date, time and location of the Council Meeting or Extraordinary Meetings of Council at which their request will be considered – and advise them they will have only ten minutes to be heard at the Council meeting;
  - that the Member must attend that Council Meeting or Extraordinary Meetings of Council, either in person or by teleconference, for their request to be considered; and
  - that the Member will be provided ten (10) minutes to make a submission regarding their request to Council; and
- before the next regularly scheduled Council Meeting, review the Council Orientation Binder to identify any STÁUTW Laws, STÁUTW By-laws, or policies and procedures pertaining to the matter brought forward by the Member.

When Council is considering a member's request, Council must:

- review the STÁUTW Laws, STÁUTW By-laws, policies, and procedures pertaining to the Member's request.
- provide the Member who made the request with ten (10) minutes to make a submission to Council regarding their request; and
- decide on the Member's request, in accordance with the relevant STÁUTW Laws, STÁUTW By-laws, policies and procedures.

### ***Responding to Requests from Members Regarding Matters Council Does NOT Have Authority to Review***

Where a Member brings a request forward to a Council Member regarding a matter that Council does NOT have authority to review and make decisions on, that Council Member must:

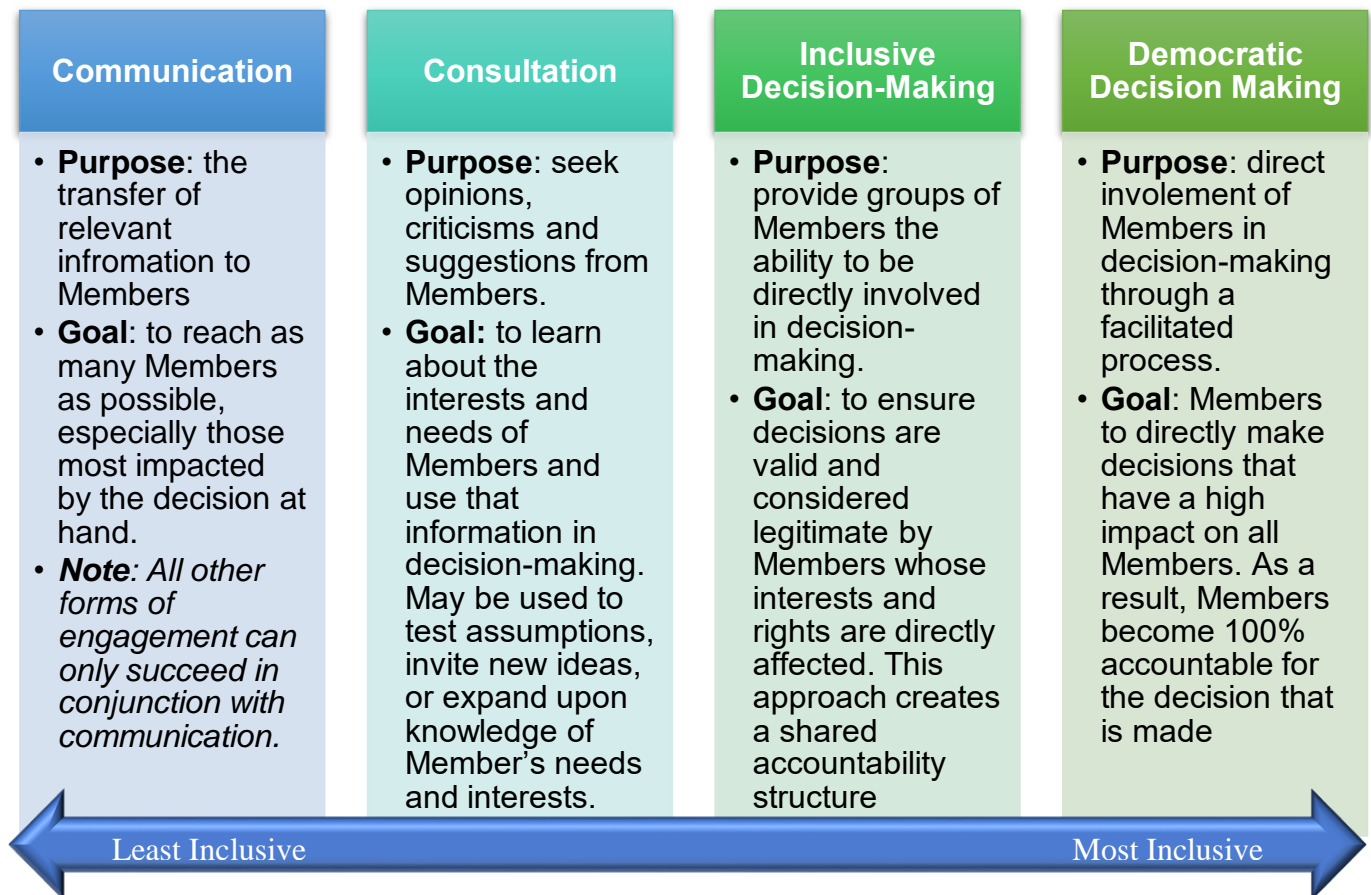
- listen to and document the Member's concern, including information relating to "who, what, when, where, and how";
- If the matter has to do with the STÁUTW administration, advise the Member that:

- the Managing Council Member will follow up on the Member's concerns with the Band Manager, who is responsible for day-to-day operational matters, and that the Band Manager will respond to the Member's concerns directly;
- the Council member has no authority to unilaterally over-ride decisions of the STÁUTW administration or STÁUTW Employees if those STÁUTW Employees are acting in compliance with STÁUTW Laws, STÁUTW By-laws, policies, and procedures; and
- the Managing Council Member will provide oversight to the Band Manager to ensure the Member's concerns are addressed and that all STÁUTW Laws, STÁUTW By-laws, policies, and procedures are being adequately followed;
- bring the matter to the attention of the Managing Council Member, who must:
  - in consultation with the Band Manager, identify the relevant STÁUTW Laws, STÁUTW By-laws, policies, and procedures relating to the Member's concerns;
  - in consultation with the Band Manager, identify the appropriate person for decision making in relation to their concern and any avenues for bringing the Member's concern forward for review or appeal;
  - instruct the Band Manager to follow up on the Member's concern and monitor the Band Manager' follow-up and response to the Member's concerns;
  - report back to Council on the Band Manager' follow-up and response to the Member's concerns, and where necessary, take actions in relation to oversight of the Band Manager.
  -

## ***Types of Engagement that Can be Used for Communicating with Members***

There are four main types of engagement STÁUTW uses, each of which has a different purpose and a different goal:

- Communication
- Consultation
- Inclusive Decision-Making
- Democratic Decision-Making



## Methods of Communication

STÁUTW may use the following methods of communication for transferring relevant information to Members about law, by-law, and policy development, and surrenders or designations of Reserve Lands.

Direct Methods of Communication	Indirect Methods of Communication
<ul style="list-style-type: none"> <li>• Email</li> <li>• Community Newsletter Delivered On and Off Reserve</li> <li>• Phone Calls to Individual Members</li> <li>• Text Messages to Individual Members</li> <li>• Door to Door Information Sharing w/ Hand Outs or Pamphlets</li> </ul>	<ul style="list-style-type: none"> <li>• Website Announcement</li> <li>• Facebook Announcement</li> <li>• Twitter Announcement</li> <li>• Billboard Announcement</li> <li>• Podcast Channel</li> <li>• Information Booth</li> </ul>

## ***Methods of Consultation***

STÁUTW may use the following methods of consultation for seeking opinions, criticisms, and suggestions from Members about law, by-law, and policy development, and surrenders or designations of Reserve Lands.

### **In Person Methods of Consultation**

- Surveys and Polling by Phone or Text
- Workshops and Focus Groups
- Council Hosted Community Meetings with Member Feedback Opportunities
- Open Space (\*Like a Coffee Shop, with someone available to explain things and answer questions)

### **Written Methods of Consultation**

- Surveys and Polling in a Members Only Area of Website
- Written and Oral Submissions Periods
- Public Exhibition and Anonymous Suggestions Box
- Online Forum

## ***Reasonable Notice Must be Provided to Members Before Consultation Begins***

Whenever a method of consultation is used in community engagement, the Department Manager or Committee who undertakes that consultation must provide Members at least 21 days advance notice of the consultation activity taking place setting out:

- the nature and scope of the Project,
- the name of the contact person within the Department Manager or Committee who is responsible for community engagement on that Project, along with their contact details,
- information regarding each Member's right to be involved in the community engagement processes related to the Project, and
- details regarding how that Member can go about being engaged in the Project.

## ***Methods of Inclusive Decision-Making***

STÁUTW may use the following methods of inclusive decision-making to directly involve groups of Members in decision-making:



## **D. REFERENCES**

None

## POLICY 8: COUNCIL HONORARIUMS AND EXPENSE REIMBURSEMENTS

### A. PURPOSE

The purpose of this policy is to:

- ensure decisions made regarding Council Honorariums are made by an independent body of persons who are not Council Members; and
- set a process for which Council Honorariums will be determined on realistic standards so that Council Members may be compensated in accordance with the reality of STÁUTW's financial position, and scope of their roles and responsibilities.

### B. POLICY

#### *Purpose of Council Honorarium*

The purpose of a Council honorarium is to:

- provide an incentive for Members to hold positions on Council.
- Ensure those Members who dedicate their time and effort to the governance responsibility of STÁUTW's services, operations, and programs are compensated fairly for their service.

#### *Council Honorarium Committee*

On or before December 31<sup>st</sup> of each calendar year, the Band Manager must appoint a Council Honorarium Committee composed of:

- At least three voting committee members, each of whom shall be independent of Council, meaning they must not be:
  - a member of any Council member's immediate family (including their mother, father, brother, sister, spouse, or child).
  - a person under the age of 18 years in respect of whom a member of the Council member's immediate family acts as a parent
  - a person to whom any Council member acts as a legal guardian
  - a person other than an employee, who is financially dependent upon any Council member's immediate family.
- The Band Manager, who will be a non-voting committee member; and

- At least one representative of the STÁUTW Finance and Audit Committee, who must not be a Council Member and who will be a non-voting committee member.

### ***Authority of Council Honorarium Committee***

The Council Honorarium Committee is authorized to:

- Seek any information in the care and control of STÁUTW that it requires to ascertain the scope of work being conducted by Council Members.
- Require the attendance of Council Members or STÁUTW Employees at a Council Honorarium Committee meeting to:
  - Provide information regarding the types and amounts of honorariums that Council Members receive from third party organizations for conducting their Council duties in relation to those organizations.
  - Provide information regarding the scope of work being conducted by Council Members.
  - Provide examples regarding the amount of remuneration paid to Council Members in similar sized first nation communities that have similar operational needs and economic resources to STÁUTW.
- At STÁUTW's expense, obtain outside legal or other professional advice as it considers necessary to ensure its decisions on Council honorarium amounts do not infringe upon any legal or fiscal obligations of STÁUTW.

### ***Annual Review and Decision on Council Honorarium Rates***

On or before the end of each calendar year, the voting members of the Council Honorarium Committee must decide unanimously in a vote by show of hands on the honorarium rates that will be paid to Council Members during the following fiscal year, including:

- Honorarium rates for attendance at half day meetings (meetings lasting less than 4 hours) and full day meetings (meetings lasting 4 hours or longer).
- Honorarium rates for travel time to meetings located more than 100km from the STÁUTW administration office.
- A list of the types of meetings for which Council Members will be paid an honorarium, which may include meetings in relation to STÁUTW politics, operational and administrative matters, committee-related matters, business-related matters, etc.



## ***Factors for Consideration in Deciding Council Honorarium Rates***

When deciding Council honorarium rates, the Council Honorarium Committee must consider:

- the scope of work that Council Members undertake to complete their duties. Some examples of Council duties may include preparation for and attendance at:
  - Council meetings,
  - community meetings,
  - public events as formal representatives of STÁUTW, such as a traditional welcoming or public speech,
  - meetings with federal, provincial, and regional government bodies,
  - meetings of aboriginal governance bodies, such as the WSÁNEĆ Leadership Council Society, BC Assembly First Nations, First Nations Summit, and Union of BC Indian Chiefs, and
  - governance training or professional development courses;
- the amounts that Council Members already receive from third party organizations for their completion of such duties.
- the amount Council Members in similar sized first nations with similar own-source revenue portfolios are paid for their work on Council; and
- the financial position of STÁUTW, which will likely require an overview from the STÁUTW Finance Committee or finance manager of STÁUTW's Financial Audit Report, Annual Budget, and Multi-Year Financial Plan.

## ***Notice to Members of Council Honorarium Committee Meetings***

The Council Honorarium Committee must provide Members with at least 7 days' notice of Council Honorarium Committee meetings by posting a written notice on the front of the STÁUTW Administration Building, on the STÁUTW website and on the STÁUTW Facebook page, as well as in the STÁUTW community newspaper, setting out:

- That the Council Honorarium Committee will be meeting to discuss and decide on Council honorarium amounts.
- That this meeting is open to Members to attend as silent observers, but that if a person disrupts the meeting, they will be expelled from it.
- The date, time, and location of the Council Honorarium Committee meeting, along with information on how Members can observe the meeting either in person or electronically.

## ***Members Right to Attend Council Honorarium Committee Meetings as Observers***

All Members have a right to attend and silently observe the business conducted at Council Honorarium Committee Meetings.

Where a Member disrupts the conduct of a Council Honorarium Committee meeting, any member of the Council Honorarium Committee may expel them from the remainder of that meeting.

## ***Minutes of the Council Honorarium Committee***

The Band Manager must take and maintain minutes of all Council Honorarium Committee meetings, including:

- a summary, not verbatim transcripts, of committee discussions;
- a list of any documents considered;
- Council honorarium rate options considered;
- Council honorarium rate decisions made; and
- a list of the types of meetings and responsibilities for which Council Members will be paid an honorarium.

Within 7 days of a Council Honorarium Committee meeting, every voting member of the Council Honorarium Committee must sign and date the official minutes of the Council Honorarium Committee.

## ***Storage of and Member Access to Minutes of the Council Honorarium Committee***

The Band Manager must store all Council Honorarium Committee meeting minutes in a secure area or computer system.

Upon request to the Band Manager from a Member, the Band Manager must provide that Member access to Council Honorarium Committee meeting minutes.

## ***Payment of Council Honorariums***

A Council Member must not sign a cheque for the payment of another Council Member's honorarium, unless the Band Manager has confirmed that the Council Member to whom the payment is made submitted the following information in relation to the Council work for which that Council member is being paid:

- date, time, location and duration of meetings, courses or business attended or to be attended; and

- purpose of the meeting, course or business attended or to be attended.

### ***Council Member Expenses***

A Council Member is entitled to reimbursement for Council-related expenses in the same manner and in the same amounts as those set out for STÁUTW Employee in the STÁUTW Human Resources Policies and Procedures.

However, there shall be no double-dipping in relation to expenses. This means that if a third-party organization is already providing that Council Member with compensation in relation to expenses, that Council member is only entitled to a reimbursement from STÁUTW of the difference between what the third-party organization is paying them and the amount set out for STÁUTW Employee in the STÁUTW Human Resources Policies and Procedures.

### **C. REFERENCES**

In addition to this Policy, you may wish to consult the STÁUTW Human Resources Policies and Procedures.

## POLICY 9: BAND COUNCIL RESOLUTIONS

The purpose of this Policy is to:

- set out a standard format for Band Council Resolutions that are drafted by STÁUTW Employees and used by Council, regardless of which department the Band Council Resolution originates in.
- provide STÁUTW Employees with direction on how to prepare and present Band Council Resolutions to Council; and
- ensure that Band Council Resolutions are stored in a centralized location and available to both STÁUTW Employees and Council.

### A. POLICY

#### *Definitions*

In this Policy, the following definitions apply:

**“Manager”** means every Manager of a STÁUTW Department; and

**“Originating Department”** means the STÁUTW Department that has conduct over the affairs to which the Band Council Resolution relates.

#### *Why have a Band Council Resolution Policy?*

A Band Council Resolution Policy is important to STÁUTW because Band Council Resolutions document formal, binding decisions of the Council.

#### *Role of Council*

Council is responsible for:

- making decisions by Quorum at a Council Meeting.
- reviewing Band Council Resolutions to ensure they accurately reflect the decision of Council.
- signing Band Council Resolutions; and
- where necessary and at their own initiative, preparing and signing a Band Council Resolution to document a decision made at a Council Meeting.

## ***Role of Band Manager***

The Band Manager is responsible for:

- maintaining a Register of Band Council Resolutions.
- ensuring that all STÁUTW Employees who prepare Band Council Resolutions are provided a copy of this policy and understand this policy.
- reviewing all Band Council Resolutions, for which the office of the Band Manager is the Originating Department, prior to their presentation to Council; and
- providing supervision and support to Managers in their carrying out of the rules and procedures set out in this Policy 6.

## ***Register of Band Council Resolutions***

A Register of Band Council Resolutions must be maintained at the Office of the Band Manager and be organized in chronological order, by number. Band Council Resolutions must be properly stored and accessible to STÁUTW Employees.

## ***Numbering of Band Council Resolutions***

A Band Council Resolution must be chronologically numbered as follows:

<b>Department</b>	<b>Chronological Number</b>
Chief and Council	C&C-YYYY-MM-DD-#
Administration Office	ADM-YYYY-MM-DD-#
Finance	FIN-YYYY-MM-DD-#
Lands	LANDS-YYYY-MM-DD-#
Housing	HOU-YYYY-MM-DD-#
Public Works	PBW-YYYY-MM-DD-#
Health	HEA-YYYY-MM-DD-#
Employment	EMP-YYYY-MM-DD-#
Social Development	SOC-YYYY-MM-DD-#

- “YYYY” refers to the year on which the Council decision is made.
- “MM” refers to the month on which the Council decision is made.
- “DD” refers to the date on which the Council decision is made.
- “#” refers to the number of Band Council Resolutions before Council on the specific date on which the council decision is made.

Example: If there are three (3) Band Council Resolutions from Social Development department in relation to decisions made at a single Council Meeting held on January 1<sup>st</sup>, 2016, they should be numbered as follows: SOC-2016-01-01-01, SOC-2016-01-01-02, SOC-2016-01-01-03

## ***Departmental File Reference***

A Band Council Resolution must contain a file reference, linking it to a file in the Originating Department.

The file reference should correlate to the file (and specific documents) within the Originating Department to which the decision of Council relates.

## ***Storage of Band Council Resolutions***

All Band Council Resolutions must be stored as follows:

- one original signed copy in the Register of Band Council Resolutions.
- one original signed copy in the Originating Department's referenced file; and
- either one original signed copy will be provided to the third party to whom the Band Council Resolution relates, or it will be stored in the Register of Band Council Resolutions.

## ***Steps to Generating and Obtaining a Band Council Resolution***

### **Step 1: Determine Whether Band Council Resolution is Required**

Where the Band Manager is putting a request or document before Council for approval, they must consider ***whether there is anyone who will require documentation evidencing Council's approval***. If yes, then a Band Council Resolution is required. Some *examples* of times where a Band Council Resolution will be required are Government to Government Agreements, Funding Applications, the granting of an interest in STÁUTW Band Lands, or as required under a law of STÁUTW, such as the STÁUTW FAL for the approval of budgets and multi-year financial plans.

### **Step 2: Draft Band Council Resolution**

A Band Council Resolution has several elements which must be included in it, including: the title, the recitals, the lead-in, the resolutions, and the signature blocks.

When necessary, attach relevant documents. This will be the case when a Band Council Resolution relates to a specific document.

Band Council Resolutions should be set out as follows (also see **Form 6: Band Council Resolution Template**):

**Title:** Band Council Resolution

**Recitals (The “Whereas” Statements):**

- “whereas” means “in view of the fact that” or “considering that”
- "Whereas" information provides the rationale for the "resolved" course of action. Whereas statement(s) should lead the reader to your conclusion, the resolution. Think of it like a story book where the Whereas statements are the story and the resolution is the climax of the story, or the main event.
- Whereas statement(s) should be set out in one or more paragraphs that serve to set the stage for the resolution by describing:
  - the circumstances leading up to the making of the resolution,
  - the legislative framework under which the resolution is being made, and
  - the reason why the resolution is desirable.

**The Lead-In:** The lead in will state:

**BE IT RESOLVED** that the Council, on behalf of STÁUTW:

**The Resolutions:**

There are 4 types of resolutions:

- resolutions that simply assert facts and do not require that the signatories act. Rather they are a statement of STÁUTW's position on a matter;
- resolutions that create, rescind, or change laws or policies, or set out the way things must be done within STÁUTW;
- resolutions that authorize an action or authorize someone to do something, such as sign an agreement on behalf of STÁUTW; and
- resolutions that direct someone to do something.

**The Signature Blocks:**

A signatory block consists of each signatory's name, along with a space for their signature to be placed.

## Attachments:

Where in a resolution Council authorizes or directs a department/employee to enter into an agreement on behalf of STÁUTW, or ratifies the entry of STÁUTW into an agreement, a copy of the agreement must be attached to the resolution as an exhibit and referred to in the resolutions.

Where in a resolution Council approves a new law or policy or other order of Council, the documents must be attached to the resolution as an exhibit and referred to in the resolutions.

## **Step 3: Presentation of Band Council Resolution to Council**

A Band Council Resolution must be presented to Council by either the Band Manager or the Manager of the Originating Department.

## **Step 4: Council Decision**

Where the Band Manager or the Manager of the Originating Department puts a proposed Band Council Resolution on the Council Agenda, and either the Band Manager or the Manager of the Originating Department attends to present the purpose of that Band Council Resolution to Council, all members of Council, who are not in a conflict of interest, must decide to:

- accept it (with or without revisions); or
- reject it.

All Council decisions must be:

- made by a Quorum at a Council Meeting, and in accordance with any laws or policies that apply to Council decisions at the time the decision is made.

For example, until such time as STÁUTW has its own Custom Election Code, decisions of Council must be made in accordance with this Governance Manual and the *Indian Band Council Procedure Regulations* (C.R.C., c. 950). If STÁUTW Band gets its own Custom Election Code, the procedures within it must be complied with. If such procedures are not complied with, the decision is at risk of being invalid; and

- documented in the Council minutes, with a copy of the Band Council Resolution attached to the Council minutes if it is approved.



## **Step 5: Signing of Band Council Resolution**

Where Council has approved a Band Council Resolution, all the Council Members who voted in favor of it must sign it and the chairperson of the Council Meeting must ensure a signed copy of the Band Council Resolution is provided to the Office of the Band Manager.

## **Step 6: Distribution and Storage of Band Council Resolution**

The Manager of the Originating Department is responsible for ensuring that any Band Council Resolution from their department is delivered to the Office of the Band Manager and to any person who requires a copy of the Band Council Resolution to give effect to any agreement.

## **B. REFERENCES**

In addition to this policy, consult the following resources:

- section 2(3) of the Indian Act;
- *Indian Band Council Procedure Regulations* (C.R.C., c. 950);
- Policy 6 of this Governance Manual; and
- the Band Manager.



## STÁUTW COUNCIL RESOLUTION SAMPLE

Chronological No.:

XXX-XXXX

File Reference:

XXXX

The Council of the: **STÁUTW FIRST NATION**

Province: **BRITISH COLUMBIA**

Place: **SAANICHTON**

Date: **XXXX**

**WHEREAS** we have been provided a copy of the STÁUTW First Nation Employee Human Resource Policy Manual ["HR Manual"], which creates a Selection Committee responsible for interviewing candidates for employee positions and making recommendations about who STÁUTW should hire, but it does not clearly specify who is to receive those recommendations and make a final decision on hiring of employees.

**AND WHEREAS** we are in the process of updating the HR Manual, and of creating a new STÁUTW Governance Manual, that when read together will set out the roles, responsibilities, and authorities of both the STÁUTW Council and the Band Manager in relation to one another and to STÁUTW employees, but in the interim clarity is still needed around who is exclusively responsible for decisions regarding hiring of STÁUTW employees.

**AND WHEREAS** we have been asked to decide that the STÁUTW Band Manager be appointed as exclusively responsible for decisions regarding the hiring of STÁUTW employees.

**BE IT RESOLVED** that the STÁUTW Council, on behalf of STÁUTW:

- A. has read the HR Manual and believes it is in the best interest of STÁUTW to decide that the STÁUTW Band Manager is exclusively responsible for decisions regarding the hiring of STÁUTW First Nation employees; and
- B. at a duly convened meeting of the STÁUTW we appoint the STÁUTW Band Manager as the person who is exclusively responsible for decisions regarding the hiring of STÁUTW First Nation employees in accordance with the HR Manual.

Chief Harvey Underwood

Councillor Allan Claxton

Councillor Samantha Etzel

Councillor John Etzel

Councillor Toby Joseph

Councillor Abraham Pelkey

Councillor Stanley Sam

Councillor Donald Williams

Councillor John Wilson

Quorum of this Council is: \_\_\_\_\_

## FORM 1: ACKNOWLEDGMENT FORM

I, [\_\_\_\_\_ Chief / Councillor's Name \_\_\_\_\_], do solemnly and sincerely [swear / declare] that:

I have read, understand, and agree to comply with the STÁUTW First Nation Governance Manual; and

I have read, understand, and agree to comply with all documents set out within the Council Orientation Manual that was provided to me by the STÁUTW First Nation Band Manager on \_\_\_\_\_.

Signed and agreed to this \_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Council Member (please print)

\_\_\_\_\_  
Signature of Council Member (please sign)

\_\_\_\_\_  
Name of Witness (please print)

\_\_\_\_\_  
Signature of Witness (please sign)

## FORM 2: COUNCIL MEMBER OATH OF OFFICE

I, [\_\_\_\_ Chief / Councillor's Name \_\_\_\_], do solemnly and sincerely [swear / declare] that as a STÁUTW First Nation Council Member I will:

- ☐ loyally serve the people of STÁUTW to the best of my abilities;
- ☐ perform my duties competently, diligently, and impartially in a manner that is consistent with the STÁUTW First Nation's mission, to the best of my ability, in accordance with this Governance Manual, STÁUTW Laws, By-laws, policies and procedures;
- ☐ perform my duties without fear, favour, or affection of or toward any person;
- ☐ act with integrity, putting the interests of STÁUTW above my own personal interest and avoid all conflicts of interest, whether real or perceived;
- ☐ safeguard confidential information and not make known any matter or issue which comes to my knowledge by reason of my role as a Council Member, unless I am either authorized to do so or am required to do so by law; and
- ☐ conduct myself honestly and ethically, in a manner that maintains and enhances the trust of STÁUTW Members in the Council and does not bring the Council into disrepute.
- ☐ I agree to always abide by these above-mentioned standards during my term of office as a STÁUTW First Nation Council Member.
- ☐ If I should fail to do so, I fully understand that my actions will be made publicly available to Members through their right of access to my Council File.

Signed and agreed to this \_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Council Member (please print)  
sign)

\_\_\_\_\_  
Signature of Council Member (please  
sign)

\_\_\_\_\_  
Name of Witness (please print)

\_\_\_\_\_  
Signature of Witness (please sign)

## FORM 3: COUNCIL MEMBER CODE OF CONDUCT

The proper operation of the STÁUTW First Nation Council requires that duly elected officials be independent, impartial, and duly responsible to STÁUTW and STÁUTW Members. To this end, it is imperative that Council Members behave and conduct themselves in a manner described below.

### Conduct

Council Members must conduct themselves honestly and ethically, in a manner that maintains and enhances the trust of STÁUTW Members in the Council and does not bring the Council into disrepute.

Council Members must carry out their duties in good faith and with diligences, care, and skill.

### Authority

The Council has the collective authority to govern the STÁUTW First Nation. Unless stated otherwise in any other law or policy passed by the Council, the Council will only exercise their authority as a collective governing body and not as individuals. Therefore, Council must speak with one voice.

The Council as a whole and as individuals will conduct themselves within the authority set out in the STÁUTW First Nation Governance Manual and other applicable laws or policies.

### Loyalty

Council Members must act honestly and in good faith and place the interest of STÁUTW and STÁUTW Members ahead of their own private interest, serving STÁUTW and STÁUTW Members to the best of their ability.

A Council Member's ultimate loyalty is to STÁUTW Members and to STÁUTW. This loyalty supersedes:

- loyalty to any advocacy or special interest groups, and membership on other boards or staff.
- the personal interest of any Council Member acting as an individual user of STÁUTW programs and services; and
- making defamatory, inflammatory, or otherwise false statements made by the Council or Council Member about STÁUTW's public image or credibility, particular in ways that would hinder STÁUTW's accomplishment of its strategic goals.

## Accepting Gifts

A Council Member must not accept a personal gift or benefit that could be seen by others as being gifted to them to influence their actions or decision-making as a Council Member.

A Council Member may accept a gift or benefit on behalf of STÁUTW.

A Council Member may only accept personal gifts or benefits that are:

- within the normal protocol exchange or social obligation associated with their position in office, common to business relationships (ex. having a meal paid for at a business meeting), or a normal exchange at a public cultural event of STÁUTW.
- Of Nominal value.
- Given by a close friend or relative as an element of their friendship with that person.

These requirements come from the *STÁUTW First Nation Financial Administration Law, 2018 – Schedule Avoiding and Mitigating Conflicts of Interest*

## Influence

A Council Member must not use their position to attempt to influence in any way a decision or action to be made or taken at a Council Meeting or by the staff if the Council Member has a financial or personal interest in the matter to which the decision or action relates.

## Confidentiality

Council Members must keep confidential all information they receive while performing their duties as Council Members, unless the information is generally available to:

- Members of the public.
- Members of STÁUTW.

Council Member may only use confidential information they receive while performing their duties as Council Members for the purposes for which it is provided to them. They must not use that information to benefit themselves personally, or to benefit the interests of their relatives, friends, or associates.

These requirements come from the *STÁUTW First Nation Financial Administration Law, 2018 – Schedule Avoiding and Mitigating Conflicts of Interest*

## Communications

Council communications will be guided by the following principles:

- deal with all persons in a fair, responsible and ethical manner and with honest, respectful communication; and
- maintain close communications with the STÁUTW Members regarding STÁUTW Law, By-laws, policies, programs, and services.

## Accountability

The Council and Council Members are accountable to STÁUTW and STÁUTW Members in the performance of the Council and Council Members duties, responsibilities, and obligations, as set out in the STÁUTW First Nation Governance Manual.

## Enforcement

Each Council Member will read and sign the **Form 1: Acknowledgement Form**, the **Form 2: STÁUTW First Nation Council Member Oath of Office**, this **Form 3: STÁUTW First Nation Code of Conduct**, the **Form 4: STÁUTW First Nation Confidentiality Agreement**, and the **Form 5: STÁUTW First Nation Conflict of Interest Agreement**. Council Members understand that a breach of any of these forms, the STÁUTW First Nation Governance Manual, or any other applicable law or policy will be public information and shared openly with Members.

I, [\_\_\_\_ Chief / Councillor's Name \_\_\_\_], acknowledge that I have read the above-mentioned Code of Conduct and agree to always abide by the above-mentioned Code of Conduct during my term of office as a STÁUTW First Nation Council Member.

**If I should fail to do so, I fully understand that my actions will be made publicly available to Members through their right of access to my Council File.**

Signed and agreed to this \_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Name of Council Member (please print)

\_\_\_\_\_  
Signature of Council Member (please sign)

\_\_\_\_\_  
Name of Witness (please print)

\_\_\_\_\_  
Signature of Witness (please sign)

## FORM 4: STÁUTW FIRST NATION CONFIDENTIALITY AGREEMENT

This **AGREEMENT** dated the [\_\_\_\_\_] day of [\_\_\_\_\_] , 20[\_\_\_] by and

### **BETWEEN:**

**STÁUTW First Nation,**

[Address]

an Indian Band under section 2 of the *Indian Act*

(hereinafter referred to as "STÁUTW First Nation")

### **AND:**

**[Name of Council member]**

[Address]

[City, Province Postal Code]

(hereinafter referred to as the "Council member")

### **WHEREAS:**

- (a) at an election held on [enter date], the Council member was elected by STÁUTW First Nation Members to represent STÁUTW First Nation Members in the governance of STÁUTW First Nation.
- (b) it is intended that the Council member must have access to Confidential Information; and
- (c) the *STÁUTW First Nation Council Governance Manual, 2022* requires that within two (2) weeks of a Council member commencing his or her term on Council, he or she must sign a confidentiality agreement relating to his or her position on Council.

**NOW, THEREFORE**, in consideration of the votes of STÁUTW First Nation Members and my acceptance of their electing me into a position on Council, I do hereby acknowledge, covenant, and agree as follows:

### **Definitions**

1. For this Agreement, the following terms must have the following meanings:

(a) "**Confidential Information**" means:

- (i) any personal information about employees or members of STÁUTW First Nation.
- (ii) any non-public information relating to the business, financial or other affairs of STÁUTW First Nation, including information about:



- (A) STÁUTW First Nation records respecting its governance, management, and operations,
- (B) STÁUTW First Nation records respecting its financial administration, including the minutes of meetings of Council and STÁUTW First Nation Committees,
- (C) STÁUTW First Nation employee records,
- (D) STÁUTW First Nation Membership,
- (E) STÁUTW First Nation policies and procedures,
- (F) STÁUTW First Nation economic development plans and strategies,
- (G) STÁUTW First Nation business acquisition plans,
- (H) STÁUTW First Nation archaeological sites, traditional uses of land and resources, and environmental reports.

(iii) any information identified by Council as confidential; and

(iv) any copies, extracts, or reproductions, in whole or in part, of any of the foregoing, whether in writing, electronic or other form.

The following information must be excluded from the definition of Confidential Information:

- (i) information which is or becomes publicly available through no act or failure to act by the Council member.
- (ii) information which the Council member can demonstrate was developed independently by the Council member from sources which do not include STÁUTW First Nation.
- (iii) information which was in the possession of the Council member at the time of disclosure and not subject to an obligation of confidentiality.
- (iv) information disclosed by STÁUTW First Nation to another without obligation of confidentiality.
- (v) information which the Council member can demonstrate was received by it from a third party without any obligation of confidentiality.

(b) “**effective date**” means the date that Council member executes this agreement, his or her Oath of Office and the Code of Conduct; and

(c) "**Law**" means any law of Canada, the Province or STÁUTW First Nation.

## **Term**

2. The term of this Agreement must commence on the effective date and must survive the expiry or termination of the Council member's term in office.

## **Use of Confidential Information**

3. The Council member agrees to use Confidential Information solely for the purpose of fulfilling the Council member's responsibilities in his or her role on Council.
4. The Council member agrees not to use the Confidential Information for his or her own benefit or the benefit of any entity in which he or she is associated.

## **Disclosure of Confidential Information**

5. Unless required by Law, the Council member must not directly or indirectly disclose, divulge, reveal, report, publish or transfer Confidential Information in any manner whatsoever, in whole or in part, regardless of the nature or source of the information or of the fact that others may share the knowledge, and must not divulge any such information unless disclosure except:
  - (a) in accordance with a clear duty to do so under a STÁUTW First Nation law or policy.
  - (b) where required by Law, to any other party; or
  - (c) with Council's prior authorization, to any other party.

## **Storage of Confidential Information**

6. The Council member must store Confidential Information in a secure manner that protects it from unauthorized use, access, or disclosure.
7. The Council member must ensure access to electronic documents and folders containing confidential information is password protected and that such passwords are not directly or indirectly disclose, divulge, reveal, report, publish or transfer Confidential Information in any manner whatsoever, in whole or in part, to any person.

## Breach of Confidentiality

8. In the event of an actual, potential, or threatened breach of the Council member's obligations related to the use or disclosure of Confidential Information, the Council member must notify Council of such breach and take all necessary actions to restrain the current and future use or disclosure of such Confidential Information.
9. **I understand that if I breach this Agreement, my actions will be made publicly available to Members through their right of access to my Council File.**

## Return of Confidential Information

10. The Council member must deliver to STĀUTW First Nation all Confidential Information that is in the Council member's possession or control:
  - (a) at the request of Council; and
  - (b) at the termination or expiry of the Council members tenure of office.

## Governing Law

11. This Agreement must be governed by, interpreted, and enforced in accordance with the laws of STĀUTW First Nation, the Province of British Columbia, and the laws of Canada, as applicable.

## Entire Agreement

12. This Agreement is the entire agreement between the Parties and supersedes and cancels all previous negotiations, agreements, commitments, and writings in respect of the subject-matter hereof and there are no understandings, representations, conditions made or assumed by the Parties, other than those expressly contained in this Agreement.

<b>Council</b>	<b>Member's</b>	<b>Information</b>	)
			)
			)
			)
Name			)
			)
Address			)
			)
			)
			)
Occupation			)

\_\_\_\_\_  
**Witness Name:** \_\_\_\_\_

## FORM 5: STÁUTW FIRST NATION CONFLICT OF INTEREST AGREEMENT

On this [\_\_\_\_\_] day of [\_\_\_\_\_] , 20[\_\_\_], in the Town of \_\_\_\_\_, in the Province of British Columbia, I [Council Member's Full Name], agree as follows:

### ***Conflict of Interest***

1. I understand that I have a “conflict of interest” when I:
  - (a) perform a Council duty and at the same time know or ought reasonably to know that in the performance of the Council duty there is an opportunity to benefit my private interests; or
  - (b) participate in any personal or business activity outside my position on Council that may interfere with the fulfillment or performance of my Council duties, or conflict with the interests of STÁUTW First Nation.
2. I understand that I have an “apparent conflict of interest” if a reasonable well-informed person would perceive that:
  - (a) my ability to exercise a Council duty must be affected by my private interests; or
  - (b) a personal or business activity I am involved in outside my Council duties must interfere with the fulfillment or performance of my Council duties, or conflict with the interests of STÁUTW First Nation.
3. I understand that my “private interests” include all of my personal and business interests and include the personal and business interests of:
  - (a) my immediate family;
  - (b) a person under the age of eighteen (18) years in respect of whom myself or my spouse is acting as parent or guardian;
  - (c) a dependent adult in respect of whom myself or my spouse is acting as parent or guardian;
  - (d) a person, other than myself, who is financially dependent upon myself or my spouse or on whom I am financially dependent; and
  - (e) any entity in which I have a controlling interest.
4. I understand that my “immediate family” means my:
  - (a) spouse or common-law partner;

- (b) father and mother and the spouse or common-law partner of my father or mother;
  - (c) child(ren) and the child(ren) of my spouse or common-law partner;
  - (d) grandchild(ren);
  - (e) brothers and sisters;
  - (f) grandfather and grandmother; and
  - (g) spouse or common-law partner's father or mother.
5. I understand that "common-law partner" means a person who has been cohabiting with me in a conjugal relationship for at least one (1) year.

***Agreement to Avoid and Mitigate Real, Perceived or Potential Conflicts of Interest***

6. I agree to avoid circumstances that could result in me having a conflict of interest or an apparent conflict of interest.
7. I agree to avoid placing myself in circumstances where my ability to exercise my Council duties may be influenced by my private interests.

***Agreement to Disclose Conflict of Interest***

8. If I believe I have a conflict of interest, I agree to disclose the circumstances in writing as soon as practical to the rest of Council.
9. If I am in a meeting and I believe I have a conflict of interest, I agree to disclose that I am in a conflict of interest and to leave the room.
10. I agree to refrain from participating in any discussions or decision-making, or actions, respecting the circumstances of the conflict of interest.

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## Breach of Agreement

11. I understand that my failure to comply with this Agreement, I will be in breach of my obligations under the *Tsawout First Nation Financial Administration Law, 2018*, and my actions will be made publicly available to Members through their right of access to my Council File.

Council Member's Information )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Witness Name: Becky Wilson

Date: January 19, 2022

Harvey Underwood  
Chief Harvey Underwood

Allan Claxton  
Councillor Allan Claxton

John Etzel  
Councillor John Etzel

Samantha Etzel  
Councillor Samantha Etzel

\_\_\_\_\_  
Councillor Toby Joseph

Abraham Pelkey  
Councillor Abraham Pelkey

\_\_\_\_\_  
Councillor Stanley Sam

Donald Williams  
Councillor Donald Williams

John Wilson  
Councillor John Wilson

Date: