

Community Panel, Adams Lake Indian Band

RECEIVED

APR 12 2017

ADAMS LAKE BAND

April 11, 2017

Attention: Adams Lake Indian Band Membership

Re: Community Panel – Band Council Motion March 14, 2017

The Community Panel has received an email from the Executive Director dated March 29, 2017 with the following wording below with attached Band Council Resolution #69 dated March 14, 2017.

“...They had convened to address the wording and have signed off on the following. Based on the direction of the motion, no further petitions can be processed until the next General Band Meeting. It would seem that the status of the October General Band Meeting is central to the issue at hand...”

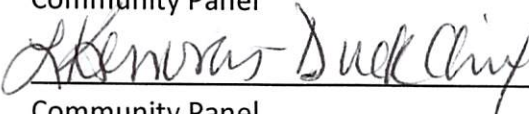
The Community Panel is empowered to act in the best interest of Adams Lake Band in carrying out our duties in accordance with 2014 Secwepemc Election Rules. The Community Panel has received a legal opinion in the past which is attached and this indicated Chief and Council and Community Panel are two separate bodies.

In our opinion Chief and Council do not have the authority to issue a Band Council Resolution suspending the Community Panel. Community Panel confirms to the Adams Lake Indian Band Membership that the Community Panel will continue to fulfill the position to the best of our abilities in accordance with the Adams Lake Secwepemc Election Rules of the Adams Lake Indian Band, and will not show favouritism to any candidate or group of persons. **This letter serves notice to the Adams Lake Indian Band Membership that we will continue to fulfil our responsibilities in accordance with the Election Rules until term ends 3rd Friday in October 2017.**

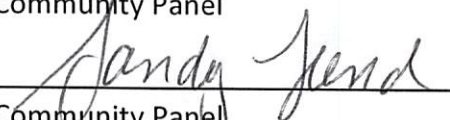
Sincerely,


Community Panel


Community Panel


Community Panel


Community Panel


Community Panel

- cc: Adams Lake Council
- cc: Carolyn Bennett, Minister of
Indigenous and Northern Affairs
- cc: Jody Wilson-Raybould
Department of Justice

ADAMS LAKE INDIAN BAND

PO Box 588
Chase, BC V0E 1M0
Phone: (250) 679-8841
Fax: (250) 679-8813

BAND COUNCIL RESOLUTION

Chronological No
2016-2017: 69
Quorum of
4

<i>The Council of the:</i>	ADAMS LAKE INDIAN BAND
<i>District:</i>	B.C. REGION - AREA NORTH
<i>Province:</i>	BRITISH COLUMBIA
<i>Place:</i>	CHASE, B.C.

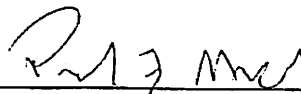
Day: 14th Month: March Year: 2017

RESOLUTION OF THE COUNCIL OF THE ADAMS LAKE INDIAN BAND
(hereinafter, called the "Council")

Community Panel - Motion

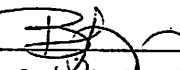
WHEREAS The Adams Lake Community Panel be immediately suspended until the next General Band Meeting from acting on behalf of Adams Lake Band as a Community Panel due to the real, actual or perceived conflict of interest that exists with the Adams Lake Band community panel. In addition, this matter will also be reviewed by Adams Lake Band legal.

**Motion ratified by quorum of Council at a duly convened Chief & Council Meeting held on Tuesday, March 14, 2017 at ALIB Boardroom.*



Chief Paul F. Michel

Councillor Norma Manuel



Councillor Brandy Jules



Councillor Ronnie D. Jules

Councillor Greg Witzky



Councillor Gina S. Johnson

CRAIG NIXON LAW CORPORATION

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(250) 374-1555
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e-mail: cnlc@cnixonlaw.ca

Our file number: 1014-001

April 16, 2009

VIA E-MAIL

Community Panel
c/o Adams Lake Indian Band
PO Box 588, 6453 Hillcrest Road
Chase, BC V0E 1M0

Attention: Art Michel, Maryann Yarama, Valerie Michel, Gerry Nevdoff and Deb Hall

Dear Sirs/Mesdames:

Re: Judicial Review of Election Appeals

Thank you for providing us with a copy of the application for judicial review of the decision of the Community Panel on the election appeals. The application was filed by Thomas Phil Dennis, who filed two election appeals, which the Community Panel has advised were both disallowed.

We gave the Community Panel a legal opinion dated March 18, 2009 about the election appeals. As that opinion may be part of the record going before the Federal Court on the judicial review, we may be in a conflict of interest in acting for the Community Panel on the judicial review. Our personal interest in defending our opinion may conflict with our duty to give the Community Panel the best representation possible on the judicial review. We therefore cannot act for the Community Panel on the judicial review.

The Community Panel functions under the Election Rules as a body totally separate from Band Council, indeed with duties and responsibilities that may conflict with those of Band Council. The Community Panel is in the course of deciding election appeals, empowered to remove one or more, or all, of the Band Councillors from office.

One of the arguments that may come forward on the judicial review, is that the Community Panel did not function independently of Band Council, in deciding the election appeals, but more as a "rubber stamp" for the election process.

If Band Council and the Community Panel are both represented by the same lawyer on the judicial review, it may appear to the court that the Community Panel has lost sight of its semi-judicial function, which is distinct from the political or executive function of the Band Council.

The interest of the recently elected Band Council in the election appeals was to have all the appeals disallowed by the Community Panel. The interest of the Community Panel in the



election appeals was to hear those appeals in the manner required by the Band's Election Rules, and to allow or disallow the appeals accordingly.

As the Band Council and the Community Panel have separate functions within the Band governance structure, and have separate interests with respect to the election appeals, they should in our view be represented by separate counsel on the judicial review of the election appeals. This separate representation will go some distance in convincing the court that the Community Panel has jealously guarded its independence from Band Council throughout the election appeal process.

The Community Panel members may have to make a personal appearance during the judicial review process. Counsel for the panel will probably want all the panel members present when the matter is heard by the court in Vancouver.

The Community Panel should act together if individual Community Panel members are defamed as part of the election appeal or judicial review process. Such defamation must be treated as an attack on the semi-judicial function of the panel, and not as an attack on individual panel members. Individual panel members are probably being attacked because of their role on the panel. The risk is that if individual panel members react to this sort of defamation, that reaction may be taken out of context and thrown back at the panel, to question the independence and impartiality of the panel.

A portion of the actual legal costs of the Community Panel can be recovered from the applicant, Thomas Phil Dennis, if the Community Panel is successful on the judicial review. The costs once taxed and determined by the court, can be registered as a judgment of the court. This judgment can then be used to recover off reserve assets of the applicant.

We understand that Band Council may retain either Mandell Pinder of Vancouver, or Pushor Mitchell of Kelowna, to represent Band Council on the judicial review.

Other lawyers we would recommend to the Community Panel include Robert Janes of Miller Thompson LLP, Vancouver, BC, phone 604-643-1232, Patricia Hutchings of Woodward & Company, Victoria, BC, phone 250-383-2356, and John Drayton of Gibraltar Law Group, Kamloops, BC, phone 250-374-3737.

Should you have any questions or require further information in this regard, please do not hesitate to contact us.

Yours very truly,

CRAIG NIXON LAW CORPORATION

Per:



CRAIG NIXON

CN/ao

