



Memorandum

To: Chief and Council

From: Robert Weston, Comptroller

Date: June 8, 2006

Subject: Mould Phase 2

Cc: Ernest Elliott, General Manager

Part of Cowichan Tribes equity in Phase 2 is \$1,600,000 that has been allocated from the Community Improvement Fee revenue in 2006/07. Because the equity has to be contributed before we can make draws on the \$10,632,000 bank financing, the Bank of Montreal has been approached to advance \$1,350,000 as a short-term loan to be repaid from the CIF funds within the next 9 months. The only security that they require for this advance is a BCR worded as follows:

"Cowichan Tribes Chief and Council hereby authorize the borrowing of \$1,350,000 from Bank of Montreal by way of demand loan at an interest rate of Bank of Montreal prime rate plus ½%. The loan will be repaid by monthly installments in the amount of \$150,000 plus interest."

I recommend that this BCR be passed.

Robert Weston

Ernest Elliott

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7. Sustainable Housing Department
Phase 2
Attached is a memo from Robert Weston regarding Phase 2. A BCR is required.
 8. Cowichan Gaming Centre
Attached is an e-mail from Robert Weston requesting that Chief & Council pass a motion appoint Ernest Elliott as signor on the joint account with Kinnetic.
 9. Finance Department
Attached is a memo from Robert Weston together with the draft Financial statements to March 31, 2006, together with the motions from the Finance Committee with the following recommendations:
 - a) That the \$8814.00 surplus in land management to go towards the 5% increase in salary for 2 employees in Land Management.
 - b) Approve the draft Financial statements to March 31, 2006 with the revisions to be forwarded to Council.
 - c) Approve the Toba cco Administration fee that it remain at \$198,000 for the 2006/07 fiscal year and be reviewed again in the following year.
 - d) Joint Personnel/Finance Committee Meeting



Cowichan Tribes

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Cowichan Tribes Personnel/Finance Joint Committee Meeting

Motion list from June 7, 2006
Council of Chambers 1:00 p.m.

Attendance: Glenn White (Chairman), Jessie George, Robert Weston, Ernie Elliott, Wes Modeste, Ed Elliott, Dora Wilson

Guest: Jeneen Roberts, Cindy Paige

Absent: Philomena Alphonse

1. **Ernie Elliott** moved to approve the Sustainable Housing Department revised budget for the wind down of the Phase 2 mold remediation project with the recommendation that Cindy Paige remain with the Sustainable Housing Department until March 2007, seconded by **Wes Modeste**.

Motion Carried.

PROJECT DIRECTOR.

Tribes wanted \$500,000 to seal Duncan Mall deal

BY BRIAN WILFORD
CITIZEN STAFF

Cowichan Tribes demanded a payout of \$500,000 from Duncan Mall to complete a deal which would have smoothed the way for Wal-Mart to build its new store on Tribes land.

Instead, Wal-Mart's real estate representative walked away from the table and has all but finalized a deal to be an anchor tenant in the new Cowichan Commons Shopping Centre to be built at Drinkwater Road and the Trans Canada Highway.

Documents filed in B.C. Supreme Court show that the

Government of Canada, Duncan Mall Ltd., the Cowichan Tribes members who own the mall land, and Calloway REIT, which holds leases to Wal-Mart properties across Western Canada, all wanted to complete a deal to sell the mall leases to Calloway.

However, the documents show an increasing frustration in dealing with Cowichan Tribes, which went so far as to threaten legal action against the other parties for breach of trust if they went ahead with a deal without Tribes' consent.

In what appears to be a last-ditch effort to save the deal, Robert Olma, of Duncan Mall Ltd., sent a letter to Tribes General Manager Ernie Elliot offering to pay a "bonus for the benefit of the Locatees (the land owners) and the Band in the amount of \$250,000 upon the transfer of the three leases" to Calloway.

When the deadline for a reply from Chief and Council passed five days later, Calloway walked away from the table Aug. 11, demanding that Duncan Mall prove, contrary to Cowichan Tribes claims, that its lease arrangements are in good standing.

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The Council of the Cowichan acted in bad faith by exercising the powers of their office for improper purposes

- From a lawsuit filed against Cowichan Tribes by the Attorney General of Canada and Duncan Mall Ltd.

Almost a month later, John Keating, Land Manager for Cowichan Tribes, responded to Olma on Cowichan Tribes letterhead, with copies to Elliot and others, presenting a "resolution" of the situation from Tribes' Land Management Committee.

Among the demands were a "\$250,000 cash payment to Cowichan Tribes on behalf of the lease recipients" and another "\$250,000 to be paid to Cowichan Tribes" to drop any legal action in relation to the leases.

Days after Calloway walked away from the table, Cowichan Tribes sued the Attorney General of Canada and Duncan Mall Ltd. for an undisclosed amount of money, claiming they

sought to alter the leases without Tribes' consent.

In return, the Attorney General of Canada and Duncan Mall Ltd. are suing Cowichan Tribes for an undisclosed amount of money, claiming the consent of Cowichan Tribes was not required and that "the Council of the Cowichan acted in bad faith by exercising the powers of their office for improper purposes."

Duncan Mall is claiming damages for:

- Loss of the bargain with Calloway;
- Expenses incurred in consultations with the Cowichan and negotiations with the Crown and Calloway;
- Inability to attract a purchaser for Duncan Mall's interests and improvements on the leased lands; and
- Prejudice to Duncan Mall's ability to obtain financing, upgrade the mall or attract quality, long-term tenants.

None of the claims from any of the parties have been proven in court.

Sources close to the land owners group, a 73 per cent majority of whom had voted in favour of a deal with Calloway, say they are actively considering filing their own lawsuit.