

CAP-CIP UPDATE

Newsletter March, 2010



NISICHAWAYASIHK TRUST OFFICE



NCN Council Approves \$4.2 million CAP-CIP Budget for 2010

Following its annual review of funding requests for community projects and programs, the 2010 Community Approval and Community Involvement processes (CAP-CIP) for the Nisichawayasihk and Taskinigahp Trusts concluded with a final meeting of Members on January 19. Chief and Council approved the 2010 budget at its February 1 meeting.

Funds allocated to approved community projects and programs for 2010 total \$4,187,502 out of a total of \$14.2 million in funding requests for community projects.

Council followed the CAP-CIP committee's recommended budget except for specific reallocations which included:

- Adding \$150,000 to the \$200,000 recommended for the Modular Classroom Assistance program
- Adding \$100,000 to the \$350,000 recommended for the Justice program
- Adding \$25,000 to the \$20,000 recommended for the Off-reserve Assistance program
- Reducing to \$25,000 from the \$100,000 recommended for the Gate House Setup
- Cutting \$200,000 for the Road Upgrading/Preparation for Paving program.

The Nisichawayasihk Trust (\$814,400) and Taskinigahp Trust (\$138,750) programs together received \$953,150. This included funding for:

- Personal Care Home
- Arena Operations and Maintenance
- Professional Services
- Claims Program
- Community Approval Process/Community Involvement Process
- Annual Audit Fees

- Corporate Trustee Fees
- Nelson House Trustees
- Trust Administration

Other allocations by category included:

Economic Development: \$920,000 – to fund HRD Employees, NCN Achimowin Radio Station, Off-reserve Assistance Program, Summer student Employment Program and Wuskwatim Equity Business Development.

Resource and Land Use: \$702,702 – to fund Country Foods Program, Elders Traditional Program, Fisherman's Association, NCN Resource Management Program and the Trappers Association.

Social Development: \$465,000 – to fund 5th Annual Round-Dance. NCN Boys & Girls Club, NCN Youth Initiative, Parks & Recreation Program and the Rediscoveries of Families program.

Education: \$485,000 – to fund Modular Classrooms Assistance, Nutrition Program, Post-secondary Funding and Special Education Program.

Justice: \$450,000 – to fund the NCN Judicial System.

Public Works: \$35,000 – to fund Animal Control and Garbage Bins.

Other: \$151,650 – to fund the Elders Subsidy and the NCN Christmas Cheer Board.

Specific allocations are included in the CAP-CIP Budget table presented on the following page.

Chief and Council has approved funding allocations to community projects and programs for 2010 totalling \$4,187,502 out of \$14.2 million in funding requests for community projects.

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Approved Funding from Trusts For 2010

2010 Nisichawayasihk Trust

Funds Available for 2010	Revenue
Nisichawayasihk Trust Funds Available	3,700,000.00
Trust Investment & Heritage Account	131,252.00
Total Funds Available for 2010	3,831,252.00

Program/Project	Budget
Nisichawayasihk Trust Administration	450,000.00
Nelson House Trustees	14,400.00
Professional Services	50,000.00
Arena O & M	50,000.00
Claims Program	20,000.00
Community Approval Process	30,000.00
Personal Care Home	200,000.00

Capital Projects

Gate House Setup	25,000.00
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Economic Development

HRD Employees	50,000.00
NCN Achimowin Radio Station	50,000.00
Off-reserve Assistance Program	45,000.00
Summer Student Employment	25,000.00
Wuskwatim Equity	750,000.00

Education

Modular Classrooms	350,000.00
Nutrition Program	20,000.00
Post-secondary Funding	75,000.00
Special-education Program	40,000.00

Justice

NCN Judicial System	450,000.00
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Public Works

Animal Control	15,000.00
Garbage Bins	20,000.00

Resource & Land Use

Country Foods Program	245,000.00
Elders Traditional Program	171,000.00
Trappers Association	59,202.00
Resource Management Program	10,000.00

Social Development

5th Annual Round Dance	5,000.00
NCN Boys & Girls Club	20,000.00
NCN Youth Initiative Program	115,000.00
Parks & Recreation	300,000.00
Rediscoveries Of Families Project	25,000.00

Other

Elders Subsidy	111,650.00
NCN Christmas Cheer board	40,000.00

Total Nisichawayasihk Trust Budget	3,831,252.00
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The interest earned in the amount of \$34,000.00 from the Recreation Facilities and Programs Sub-Account will be allocated to the Parks & Recreation Program.

2010 Taskinigahp Trust

Funds Available 2010	Revenue
Taskinigahp Trust Funds Available	225,000.00
Wuskwatim Transmission Dev. Fund	131,250.00
Total Funds Available for 2010	356,250.00

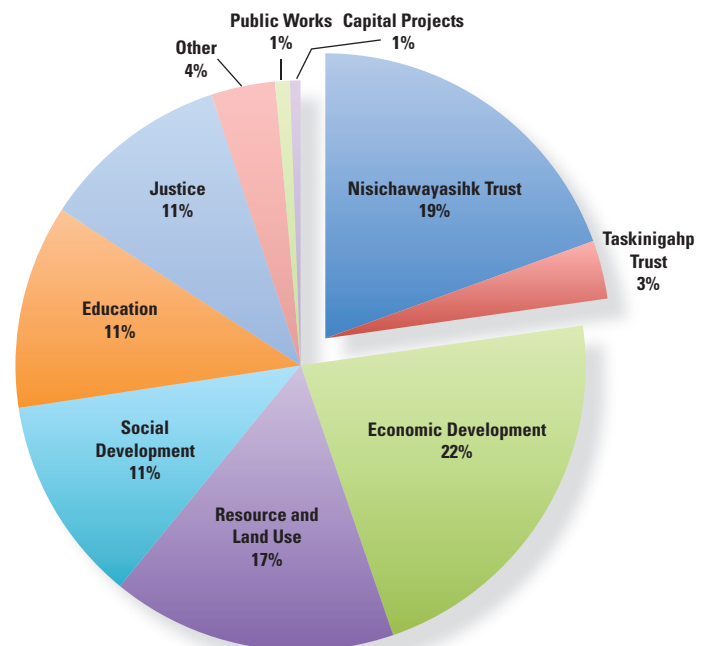
Program/Project	Budget
Taskinigahp Trust Administration	25,000.00
Audit Fees	6,850.00
Corporate Trustee	32,500.00
Trustees	14,400.00
Community Involvement Process	30,000.00
Claims Program	5,000.00
Professional Services	25,000.00
Resource Management Program	30,000.00
Fisheries Association	56,250.00
Total	225,000.00

Wuskwatim Transmission Development

Resource & Land Use	
Fisheries Association	108,750.00
Trappers Association	22,500.00
Total	131,250.00

Total Taskinigahp Trust Budget	356,250.00
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2010 CAP-CIP Budget Allocations by Sector



Legal Opinion Confirms CAP-CIP Budget Approval Process was Correctly Followed

At its February 1, 2010 meeting NCN Chief and Council approved the 2010 CAP-CIP budget after a delay to seek a legal opinion on a protest letter and petition submitted to the Trust by NCN Member Felix Walker. Chief and Council considered the motions from his letter, the petitions he presented and the legal opinion before making its final decision to approve the 2010 CAP-CIP budget.

Mr. Walker's letter claimed irregularities in the CAP-CIP budget-approval meeting process:

1. Inadequate notice of the meeting
2. The meeting should have been delayed due to a funeral the previous day and two medical emergencies in the community
3. The meeting was not conducted using established rules of order related to the security of the voting procedure, which resulted in two different vote tallies
4. Persons with a conflict of interest were allowed to vote
5. A secret-ballot vote was required but not held. The Chair refused to recognize or allow amendments to the proposed budget from the floor.

Legal Opinion Sought

Following receipt of the letter and petition, Trust Director, Joyce Yetman sought a legal opinion on the claims from NCN's legal counsel, Valerie Matthews Lemieux.

Legal counsel determined all six allegations were without foundation.

By way of background, the January 19 meeting was called because the Trust learned after the December 15 meeting that the Transmission Benefit was less than estimated in the CAP-CIP budgeting process. This required consideration of different funding options that were addressed and voted on at the January meeting.

Highlights of the Legal Opinion

In developing the opinion, legal counsel gave consideration to an August 14, 2006 arbitration award that considered issues similar to those raised by Mr. Walker.

1. **Inadequate public notice** – Legal counsel identified no irregularities.

The notice for the January 19 meeting was posted on January 6 – more than the seven-days notice required before a CAP-CIP meeting. In addition, the notice was clear that two issues would be considered including accessing funds from the Investment and Heritage Account. In the 2006 Arbitration case, a notice that did not mention accessing funds was considered to be valid by the Arbitrator given all factors related to the CAP process. In this case, the notice was clear and it also complied with requirements in both Trust Indentures.

The rules of procedure for the meeting were similar to those used in previous CAP-CIP meetings. Again, the rules of procedure given to people attending the meeting outlined how voting would take place.

2. **Community Mourning/Attending to Medical Issues** – Legal counsel concluded no procedural irregularity occurred.

Past practice has been to cancel meetings on the day of a funeral, but not the day after. Meetings are also not postponed for individual medical emergencies. Neither Trust Indenture provides an obligation for such postponements.

3. **Rules of Order** – Legal counsel concluded there were no procedural irregularities.

Mr. Walker's alleges the rules of order specify the doors to the meeting would be locked at 5:30 p.m. but were not.

CAP-CIP budget approved following a legal review of alleged irregular procedures that caused delays in the budget approval process.

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The rules of order did not indicate the doors would be locked. To provide security, the Trust posted security personnel at the doors and advised people they could not enter or leave the room at the time of the vote. Mr. Walker attributes this alleged breach of security to the Chair allowing two different vote tallies. In fact, because two motions were presented, two separate votes were recorded.

- 4. Persons in Conflict of Interest** –The Trust Indentures allow all members to vote on certain Trust matters with exceptions limited to situations where members of Chief and Council or the Trustees have an interest beyond that of a Member or group of Members generally.

Since Mr. Walker did not identify voters alleged to be in conflict, no basis for the claim appears to be available, particularly given the CAP-CIP Committee's procedures that try to ensure even-handed and fair consideration of proposals in a community tightly knit by kinship relationships. A similar concern was raised in the 2006 arbitration.

- 5. Secret-ballot Vote** –The Trust Indentures indicate a secret-ballot vote must be held if requested by at least 20 members, but no request for a secret ballot vote was requested at either the December 15 or January 19 meetings. Therefore, this does not constitute a procedural defect. To hold a vote at a community meeting by a show of hands or standing up is also not undemocratic or a failure to follow rules of natural justice, as Mr. Walker claims. Votes at many meetings are conducted this way.

- 6. Amendments from the Floor** – Legal counsel concluded no procedural defect as alleged. The Trust Office advises that no amendments from the floor have ever been held for CAP-CIP budgets.

Further, the vote on the first motion was simply a vote recommending Council approve the budget as presented. Under both Trust Indentures, the final say for actual budget approvals rests with Chief and Council, not with the community or the Trustees, as long as all information has been fairly disclosed with no significant departures from what has been disclosed.

At the January 19 meeting, no significant departures from the information presented occurred. Since some changes followed the December 15th meeting, those were properly disclosed with the appropriate notice of meeting posted for the January 19th meeting.

Response to the Petition to Restore Funding for Wellness Centre Programs

Mr. Walker's petition sought \$250,000 to restore funding for three Wellness Centre programs: Kanithin Waskikan, Zummer Adventure Camp and Rediscovering Families.

Legal counsel reviewed documentation on the review-committee's process and ratings for those programs. The Kanithin Waskikan program was rated a low priority during all three steps in the assessment process and the proposal was a repeat request for a program that originally sought one-time-only funding. The Zummer Adventure Camp was also rated low during all three steps of the proposal assessment process and was seen as a duplication of services offered by the Recreation and Youth initiative and the Boys and Girls Club.

The budget presented at the December 15 CAP-CIP meeting did allocate \$25,000 in funding for the Rediscovering Families program.



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