

## NEWSBEAT

## FIRST NATIONS

# Reburial of First Nations bones — a look at the step-by-step process

Six individuals, artifacts ultimately found in Ganges

BY JONATHAN YARDLEY  
SPECIAL TO THE DRIFTWOOD

As the architect and representative for the Creek House Phase III project, I am now in a position to tell the owner's side of the story related to recent activities on the Mark's Work Warehouse site in downtown Ganges.

In December 2010, during the process to obtain an amendment to the existing development permit, it became apparent that the site was located on a designated archaeological site, which triggered the need for an alteration permit under the Heritage Conservation Act.

The permit, prepared by Jessica Ruskin of Millennia Research Limited, detailed how the investigation would be carried out and the notification process if human remains were found. It was reviewed by 11 First Nations bands, who have an interest in this area of Salt Spring Island. These are as follows: Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation, Penelakut First Nation, St'uminus First Nation, Hul'qumi'num Treaty Group, Pauquachin First Nation, Tsartlip, Tsawout First Nation, Tseycum Indian Band and Tsawwassen First Nation.

Archaeological excavation started on March 3. As with the normal requirements of the alteration permit, the professional archaeologists always work one on one with a First Nations

representative. During the first two days, members of the Tsawout and Tsartlip were present.

The first human remains were found on March 7 and were in the form of scattered long bones, indicating that this site had been previously disturbed. Under the guidance of Simon Smith Jr. (Tsartlip), these fragments were recorded, collected and placed in a blanket for re-burial.

As soon as any human remains are discovered, work immediately stops on the site and all 11 First Nations are informed, following which direction is sought as to how to proceed. In this case, following many discussions, a meeting was held in April at the office of the Tsartlip First Nation in Brentwood Bay, at which it was decided that work could continue with the archaeological excavation and that, in consultation with the other First Nations bands, Tsartlip would lead the organizing for the reburial of these first human remains.

Further excavation on April 12 found more human remains associated with the first individual burial recovered together with two siltstone concretions, possible beads and a nephrite celt. A roasting pit feature was also excavated. On April 13, further human remains were exposed adjacent to the south sidewalks.

On April 14, individuals two, three and four were found. Accordingly, construction work stopped. Discussions were held with Chief Simon Smith, Sr. (Tsartlip) and he directed that individuals two and

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three could be covered with sediment (midden material) and remain in place and that work could proceed. Further excavation revealed individual four. On April 18, further work was carried out on site with individual five being revealed.

With our reporting to the 11 First Nations, an in-depth on-site review and meeting were held on May 6 in order to resolve the issue of whether the remaining remains should stay on site with correct encapsulation procedures or whether the remains should be removed off site for re-burial.

The outcome of the six-hour meeting was that the bones were uncomfortable where

they were currently laid and wished to be relocated in a quieter location, although not all First Nations agreed that the remains be removed.

Late Monday, May 16, it was determined that the 11 First Nations would become responsible for the removal and re-burial of the five human remains.

Work on the excavation re-started on Wednesday, May 18 and led to discovery of a sixth individual. During this intense day of excavation, several grave goods were found, including three sawn nephrite celts, two shouldered contracting stem points and a bone chisel. Laura Sylvester (Penelakut) was the elder supervising the removal.

Returning the next day, the remains of all six individuals were then transported to a private waterfront property at the south end of Salt Spring Island where the re-burial was completed. At both the re-burial and the beach-held burning ceremony, D'Ann Owen and Vashti Thiesson of Millennia and myself were asked to participate, which was a great honour for us all.

The various protocols were followed, 11 First Nations were part of both

the decision-making process and actively involved with the site investigation. I believe that the care and respect given to the six individuals that were found, with their removal and re-burial in a peaceful and quiet location, was the best outcome for all concerned.

Thanks must be given particularly to Vashti Thiesson and Jessica Ruskin for the very sensitive and diplomatic way in which, as professional archaeologists, they handled the project. The co-operation and great knowledge that all the First Nations participants brought to us all is deeply felt.

Upon the completion of the building for Leon Aptekmann, a memorial plaque will be unveiled, giving details of the above events and respecting the six reburied individuals.

*The writer is architect for Phase III of the Creek House project in Ganges. A more detailed version of this account is posted on our website at [www.gulfislandsdriftwood.com](http://www.gulfislandsdriftwood.com) in the News section.*

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## MANAGING YOUR MONEY

### Domestic contracts – do you need to set your own rules of engagement?

These days it seems we often read about high-profile couples who have entered into 'domestic contracts' -- also known as prenuptial agreements, cohabitation agreements, or marital agreements. The couple takes this step because one or both partners do not want the standard rules concerning family property, the family home, spousal support, and pension rights to apply to them. Instead they establish a contract that specifies what each partner is entitled to in the event of a breakdown in the relationship and/or the death of one of the parties.

If you're considering setting your own rules of engagement, here are some things you need to know about domestic contracts.

**Who should consider a prenuptial agreement?** A 'domestic contract' is usually recommended for a person who owns a business, has a large net worth inheritance they wish to protect, or is bringing a valuable family home or cottage into the relationship that would otherwise be shareable, by statutory rules, at the time of separation.

**When is a domestic contract valid?** To be enforceable, domestic contracts should be in writing, signed by both parties, and witnessed. Each of the parties should have received independent legal advice. As well, each party must provide complete financial disclosure of assets and income. If the contract is a prenuptial agreement, it should

be signed well in advance of the wedding day.

**What can be included in the contract?** Generally, these contracts deal with property issues, and support rights, although some jurisdictions allow partners to make an agreement regarding the education and moral training of a child. Only separation agreements can deal with child custody and access arrangements. Regardless of the type of agreement, it may be overturned by a court if it is found to be unconscionable or if the parties did not provide complete disclosure at the time the agreement was entered into.

For married couples, a domestic contract is the basis for 'opting out' of statutory rules that would normally apply. But common-law couples may decide to establish a contract to 'opt in' to statutory rules that in many jurisdictions may only apply to married partners. For example, a common-law couple living in a jurisdiction that divides 'family property' only upon a breakdown of a marriage may wish to specify the equal division of 'family property' in a contract, even though they are not married.

Be sure to get both legal and financial advice before entering into a domestic contract as each jurisdiction may have different rules and regulations.

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