

**Subject: Tax Cancellation Request for Fort McKay First Nation****APPROVALS:****Jamie Doyle**\_\_\_\_\_  
Director\_\_\_\_\_  
Chief Administrative Officer**Recommended Motion:**

THAT Council, in the spirit of truth and reconciliation, apply Section 347 of the *Municipal Government Act* for the eleven (11) properties in Fort McKay that are being considered as an Addition to Reserve to the Fort McKay First Nation Reserve by approving the cancellation for the 2020 and 2021 tax years, in an amount of \$166,648.87 comprising municipal taxes and penalties in the amount of \$120,301.15 and fund the amount of \$46,347.72 in Province of Alberta requisitions from Municipal reserve; and

THAT Administration be directed to explore further steps to cancel property taxes in future years for said eleven (11) properties until the Addition to Reserve process is finalized between the Fort McKay First Nation and Indigenous Services Canada.

**Summary:**

Fort McKay First Nation (FMFN) is seeking a decision from Regional Municipality of Wood Buffalo Council, as per Section 347 of the *Municipal Government Act (MGA)*, to cancel the taxes and tax arrears on eleven (11) properties (shown in Attachments 1-4) that are part of an Addition to Reserve (ATR) process between the FMFN and Indigenous Services Canada (ISC).

Four (4) of the properties are part of the Treaty Land Entitlement (TLE) process and the seven (7) remaining lots are “community additions” to the ATR. The ATR process was supported by Council last July 14, 2020, (Attachment 6) and, once the ATR process is complete, the eleven (11) properties will be converted to First Nation Reserve lands which would make them exempt from municipal taxes under the *MGA*.

**Background:**

On September 23, 2020, the Chief Administrative Officer received a letter from FMFN expressing concern about the increase in taxes and requested that the Municipality work with FMFN to identify a solution. The total taxes in 2019 for these eleven (11) properties were \$3,615.94 and, in 2020, the total taxes rose to \$76,941.48. This substantial single-year increase in taxes totalled \$73,325.54. The increase is attributed

principally to improvements made to structures built in 2010 but not captured in the assessment values until late 2018.

Fort McKay First Nation approached Financial Services to formally request a tax exemption on October 23, 2020, for these properties outside the Reserve owned by the FMFN. The FMFN cannot own titled land registered at the Alberta Land Registry; therefore, FMFN placed titles in the name of two (2) for-profit companies that it owns: Fort McKay Group of Companies Ltd. and Fort McKay Strategic Services Ltd.

Fort McKay First Nation indicated that the profits generated from these companies are used to financially support FMFN and its members. The tax exemption application was requested as per Section 362(1)(n)(ii) of the *MGA*, which allows for an exemption of taxes for “property that is held by a non-profit organization and used solely for community games, sports, athletics for the general public.”

The tax exemptions being requested for the eleven (11) properties located outside the Reserve but owned by FMFN (Attachment 1) include land uses such as the Community Arena & Recreation Fields; the FMFN Youth Center; the FMFN Family Support Center; the FMFN Daycare; and an Elders Center. FMFN advises that facilities such as the Arena and Youth Center are shared with all residents of the Fort McKay community members, both on- and off-Reserve.

Administration reviewed FMFN’s requested tax exemption based on the provisions outlined in the *MGA* and concluded that the request did not meet the strict requirements of Section 362(1)(n)(ii), as properties must be held by a non-profit organization, and used for the benefit of the general public.

On April 20, 2021, the Chief Administrative Officer sent correspondence to FMFN indicating that the properties did not qualify for exemption under Section 362(1)(n)(ii) and advised that, as Administration does not have the authority to waive, reduce, or cancel municipal taxes, the matter would have to be further considered by Council. As per Section 347(1) of the *MGA*, if Council considers the refund or cancellation to be equitable it may, with or without conditions, cancel or refund all or part of the municipal tax.

All eleven (11) properties are in the process of being added to Reserve land and transferred out of the Alberta Land Titles registry through the ATR process. The Municipality provided a letter of support in 2020 for these ATR properties and is currently negotiating a Municipal Service Agreement (MSA) to address both utility servicing and associated tax-loss adjustment issues.

Fort McKay First Nation acknowledged the process and outstanding issues in a letter to the RMWB dated June 23, 2020 (Attachment 5). Upon completion of the ATR with ISC, these properties will be exempt from municipal taxation and the provision of municipal services will be subject to a service cost-recovery agreement with FMFN.

**Alternatives:**

1. Council approve the request by FMFN to cancel applicable 2020 and 2021 municipal tax, tax arrears penalties, and provincial requisition amounts for the eleven (11) properties it holds outside the Reserve and in the Fort McKay hamlet. The rationale is that it is “equitable” for Council to consider this cancellation based on the ATR process having commenced and having been endorsed by this Council previously, in 2020 (Attachment 6).
2. Should Council support the cancellation of municipal tax, tax arrears penalties, and provincial requisition amounts for 2020 and 2021, it may wish to further consider taking steps to cancel property taxes in future years for said eleven (11) properties until the ATR process is finalized between the Fort McKay First Nation and Indigenous Services Canada
3. Council decline the request by FMFN to cancel 2020 and 2021 municipal tax, tax arrears penalties, and provincial requisition amounts for the eleven (11) properties that it owns through related for-profit corporations in the Fort McKay hamlet.

**Budget/Financial Implications:**

Should Council elect to cancel 2020 and 2021 taxes and all Province of Alberta requisitions, this will result in a net decrease in the amount of \$166,648.87. The municipal tax portion is equal to \$106,836.99, accrued penalties are \$13,464.16, and the total Alberta requisition amount remitted to the Province of Alberta is equal to \$46,347.72. Any cancellation or refund of Alberta requisitions would have to be taken from Municipal reserve.

**Rationale for Recommendation:**

The RMWB’s 2018-2021 Strategic Plan calls on the Municipality to:

- implement the Truth and Reconciliation Commission (TRC) Calls to Action (#4a);
- strengthen rural and Indigenous communities and partnerships (#4f); and,
- advocate for rural and Indigenous communities (#4g).

Existing legislation and policies are rooted in and based upon colonial practices, commencing with the Federal Government’s *Indian Act* which was first enacted in 1876. The strict interpretation of such legislation may have negative and lasting impacts on Indigenous people and communities.

The ATRs that were supported by Council in 2020 cannot be finalized if the properties in question have outstanding tax arrears. This would not only have negative consequences for FMFN, but it also places the Government of Canada at risk of not being able to fulfill its obligation to FMFN for lands owed and restitution by way of the TLE portion of the ATR.

TRC Call to Action #47 calls on municipal government

“...to repudiate concepts used to justify European sovereignty over Indigenous peoples and lands...and to reform those laws, government policies...that continue to rely on such concepts.”

The Municipality views supporting the FMFN ATR process as an opportunity to strengthen its priority of building meaningful relationships, while also meaningfully responding to Call to Action #47 to advance the priority of reconciliation with Indigenous people and communities in the Region.

**Strategic Priorities:**

Responsible Government  
Rural and Indigenous Communities and Partnerships

**Attachments:**

- 1. FMFN Tax Cancellation - List of Properties**
  - 2. FMFN Tax Cancellation - List of Properties - Legal Ownership Area**
  - 3. FMFN Tax Cancellation - Map of TLE Lands**
  - 4. FMFN Tax Cancellation - Map of Community Additions**
  - 5. FMFN Tax Cancellation - Addition to Reserve**
  - 6. 2020\_07\_22 - RMWB Ltr. of Support to ISC re ATR**
- RMWB Presentation - Fort McKay First Nation Tax Cancellation Request**