

Ministre des Affaires indiennes et
du Nord canadien et interlocuteur fédéral
auprès des Métis et des Indiens non inscrits



Minister of Indian Affairs and
Northern Development and Federal Interlocutor
for Métis and Non-Status Indians

Ottawa, Canada K1A 0H4

I, the Minister of Indian Affairs and Northern Development, HEREBY
APPROVE, pursuant to section 83 of the *Indian Act*, the following by-law
made by the Millbrook First Nation, in the Province of Nova Scotia, at a
meeting held on the 16th day of July 2009.

- **Millbrook First Nation
Property Tax Expenditure By-law**

A handwritten signature in blue ink, appearing to read "Chuck Hill".

Dated at Ottawa, Ontario, this 14th day of September 2009.

MILLBROOK BAND (FIRST NATION) of INDIANS

BYLAW No. 2009-01

Millbrook Property Tax Expenditure Bylaw

WHEREAS: the Millbrook Band of Indians Land Tax By-law, enacted on the 3rd June 1996, hereinafter called The Property Assessment and Taxation Bylaw was made pursuant to subsection 83(1) of the *Indian Act*, R.S.C. 1985, c.I-5, as amended, for the purpose of taxation for local purposes of land, or interests in land, in the “reserve” (as defined in the Property Assessment and Taxation Bylaw), including rights to occupy, possess or use land in the “reserve”;

Subsection 83(2) of the *Indian Act* provides that an expenditure made out of moneys raised pursuant to subsection 83(1) of the *Indian Act* must be made under the authority of a bylaw of the council of the band;

Section 55 of the Property Assessment and Taxation Bylaw authorizes the making of certain expenditures out of property tax revenue and, in addition, the Taxation Expenditure Bylaw was enacted for the purpose, *inter alia*, of establishing procedures for the authorization of expenditures to be made out of property tax revenue from time to time;

Council wishes to authorize expenditures (in addition to those authorized under section 55 of the Property Taxation Bylaw) to be made out of property tax revenue from time to time in this bylaw.

NOW BE IT HEREBY RESOLVED that the following bylaw be and is hereby enacted pursuant to the provisions of the *Indian Act* and in particular subsections 83(1) and (2) thereof, for the purpose of authorizing expenditures to be made out of property tax revenue.

SHORT TITLE

1. This bylaw may be cited for all purposes as the **Millbrook Property Tax Expenditure Bylaw**.

TAXATION EXPENDITURE BYLAW

2. In this bylaw, including without limiting the generality of the foregoing in the recitals and this section,

“annual property tax budget” means a budget that includes and identifies in a general way projected property tax revenue for a fiscal year, surplus or deficit property tax revenue carried over from previous fiscal years and projected expenditures to be made out of property tax revenue for the fiscal year for local purposes;

“band” means the Millbrook Band of Indians;

“band council resolution” means a motion passed and approved at a duly convened meeting of council pursuant to the consent of a majority of the quorum of the councillors of the band;

“community works” includes, without limitation, designing, constructing, reconstructing, creating, replacing, enlarging, extending, removing, moving, repairing, maintaining and operating buildings and facilities, public works services as they apply to the reserve, located within reserve and owned, operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the band or council on behalf of the band and used for community services or general government services, including, without limiting the generality of the foregoing, band administration offices, band public works yards, cemeteries, longhouses, cultural centres, daycare centres, group homes, libraries, archives, museums, art galleries, recreation centres, parks and playgrounds, together with reserve lands appurtenant thereto;

“community services” includes, without limitation, programs and services (other than utility services), operated, controlled, managed, administered, provided or financially supported, wholly or in part, by the band or council on behalf of the band and of benefit to any residents of reserve (whether in common with any non-residents of reserve or not) including, without limiting the generality of the foregoing, social, public health, cultural, recreation, education, daycare, library, park, playground, police or fire protection programs and services;

“council” means the council of the Millbrook Indian Band within the meaning of subsection 2(1) of the *Indian Act* as elected by the band members from time to time pursuant to the custom of the band;

“fiscal year” means April 1st of a calendar year through March 31st of the following calendar year;

“general government services” includes, without limitation, government and administrative programs, services and operations of the band or council on behalf of the band including, without limiting the generality of the foregoing, the operations of council and the development, preparation, enforcement and administration of council or band policies, bylaws and programs and the administration and operation of departments of the band;

“Minister” means the Minister of Indian Affairs and Northern Development and includes a person designated in writing by the minister;

“permitted property taxation bylaw expenditures” means those expenditures out of property tax revenue authorized to be made under subsection 55 of the Property Assessment and Taxation Bylaw;

“property assessment bylaw” means the Millbrook Indian Band Property Assessment Bylaw approved and passed by the council on the 15th day of May, 1996 and approved by the Minister on the 3rd day of June, 1996, as amended from time to time;

“property taxation bylaw” means the Millbrook Indian Band Property Taxation Bylaw approved and passed by the council on the 15th day of May, 1996 and approved by the Minister on the 3rd day of June, 1996, as amended from time to time;

“property tax revenue” includes all taxes and other moneys raised under the Property Assessment and Taxation Bylaw, including without limiting the generality of the foregoing all interest earned thereon and other accumulations thereto from time to time;

“public works” includes:

- (a) designing, constructing, reconstructing, creating, replacing, enlarging, extending, removing, moving, repairing, maintaining or operating:
 - (I) roads, streets, overpasses, underpasses, sidewalks, foot crossings, curbing bridges, tunnels, culverts, embankments and retaining walls;
 - (ii) equipment, wires, works and facilities, including standards and conduits, necessary to supply public lighting within reserve, including without limiting the generality of the foregoing, all necessary poles, towers, cross-arms, encasements, transformer structures and other related works and facilities;
 - (iii) conduits for wires, fibre-optics and pipes for purposes other than providing public lighting within reserve, including without limiting the generality of the foregoing all necessary poles, towers, cross-arms, encasements, transformer structures and other related works and facilities;
 - (iv) storm or sanitary sewer or water lines, works and facilities, including service connections to sewer or water lines on land abutting a main;
 - (v) sewerage treatment and water treatment works, facilities and plants;
 - (vi) retaining walls, rip-rap, sheet-piling, sea-walls, pilings, dykes and breakwaters in, along or adjacent to the sea, a lake or a river; and
 - (vii) any buildings, works or facilities related or ancillary to anything referred to in subparagraphs (I) through (vi), together with reserve lands appurtenant thereto;
- (b) remediating environmentally contaminated reserve lands; and
- (c) creating new lands by any lawful means including, without limiting the generality of the foregoing, by the placement and compaction of permitted soils and other fill materials;

- (b) nothing in this bylaw shall have the effect of amending subsection 55 of the Property Assessment and Taxation Bylaw or of limiting the authorization of, or requiring additional procedures to permit, expenditures of property tax revenue thereunder.

PROPERTY TAX REVENUE ACCOUNTS

- 5.(1) All property tax revenue shall be deposited in a special account or accounts maintained in the name of the band and be invested until required to be expended pursuant to an annual property tax budget that has been approved by band council resolution.
- (2) Any surplus property tax revenue raised during a fiscal year that is not required for expenditure during that fiscal year pursuant to an annual property tax budget that has been approved by band council resolution, shall be set aside in a special surplus fund account or accounts maintained in the name of the band and be invested until required for such expenditure in a future fiscal year.

ADMINISTRATION AND ENFORCEMENT

- 6. The surveyor of taxes shall administer this bylaw.

BYLAW REMEDIAL

- 7. This bylaw shall be construed as being remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objectives.

MISCELLANEOUS

- 8.(1) Headings form no part of this bylaw but shall be construed as being inserted for convenience of reference only.
- (2) A finding by a court of competent jurisdiction that a section or provision of this bylaw is void or invalid shall not affect or bear upon the validity or invalidity of any other section or part of this bylaw or this bylaw as a whole.
- (3) Where a provision in this bylaw is expressed in the present tense, future tense or in the past tense, the provision applies to the circumstances as they arise.
- (4) In this bylaw words in the singular include the plural, and words in the plural include the singular.

“reserve” means those lands the legal title to which is vested in Her Majesty, that have been set apart by Her Majesty for the use and benefit of the band, whether they be designated lands or conditionally surrendered lands or otherwise;

“surveyor of taxes” means the surveyor of taxes appointed by council under the Millbrook Property Assessment and Taxation Bylaw;

“taxation expenditure bylaw” means the Taxation Expenditure Bylaw referred to in section 2;

“utility services” includes water, storm sewer, sanitary sewer, garbage collection, garbage disposal, solid waste disposal, sewage treatment and water treatment programs, services and operations.

AUTHORIZATION OF EXPENDITURE OF PROPERTY TAX REVENUE

- 3.(1) This bylaw authorizes the expenditure of property tax revenue by council on behalf of the band for local purposes.
- (2) Without limiting the generality of subsection (1) but for greater certainty, this bylaw authorizes the expenditure of property tax revenue by council on behalf of the band on community works, community services, general government services, permitted property taxation bylaw expenditures, public works and utility services.

ANNUAL PROPERTY TAX BUDGET

- 4.(1) On or before July 31st in each fiscal year, the surveyor of taxes shall prepare and table with council a draft annual property tax budget for the then current fiscal year and a draft band council resolution approving the budget, and Council shall endeavour to consider such budget and resolution on or before August 31st of the same fiscal year.
- (2) An annual property tax budget may, but is not required to, be in the form of that draft annual property tax budget attached as Schedule “A” to this bylaw.
- (3) Subject to subsection (3), all expenditures made out of property tax revenue that Council is authorized to make under this bylaw shall be made pursuant to an annual property tax budget that has been approved by band council resolution.
- (4) For greater certainty:
 - (a) band council may at any time and from time to time amend any annual property tax budget and any band council resolution approving an annual property tax budget, and

COMING INTO FORCE

9. This bylaw shall come into force immediately upon being approved by the Minister.

This bylaw is hereby enacted by Council at a duly convened meeting held on the 1st day of July, 2009.

Chief Lawrence Paul
Chief

[Signature]
Councillor

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Councillor

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The quorum of the Council is 5 members.

Number of members of the Council present at the meeting: 9