

# the Community

Wasauksing Band Council Monthly Report



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**CHIEF'S MESSAGE**  
**CHIEF TABOBANDUNG**

Aanii, Boozhoo, Miigwech to Vince for the opening prayer. First I will explain the change in time from 7:00pm to 9:00am for this month's Council meeting, with the fall harvest season on us four of the six members of Chief & Council were hunting last week, and immediately following this meeting 3 of the 6 members of Chief & Council will be travelling to Sault Ste. Marie to attend the Anishinabek Nation Fall Assembly in Garden River – so with a 6 hour drive to Garden River hosting the meeting earlier in the day enabled the Chief & Council to leave at an earlier time of day instead of travelling all night.

I have heard that many hunters did well in the bush, so I want to congratulate them and hope that they passed some information on about traditional practises.



**MEETINGS & EVENTS ATTENDED**

Anishinabek Police Service Conference Call – October 2, 2012  
Community Council meeting - October 2, 2012,  
Economic Strategic Plan – with DPRA Canada, October 3, 2012,  
Membership Committee Meeting – October 4, 2012,  
KPMG – overview of Corporate Structures – October 9, 2012  
Management Update Mtg/Business Council Mtg – October 9, 2012,  
Boundaries Conference Call – October 12, 2012,  
Aboriginal Entrepreneurs Conference (Ottawa) – October 14-17, 2012,  
Grand Opening of Water Plant – October 18, 2012,  
Review Property Tax Law – October 19, 2012,  
Police Governing Authority quarterly mtg (Sault Ste Marie) – October 22-25, 2012,  
Community Info Session – Corporate Structures / Economic Strategy – October 27, 2012,  
Business Council Meeting – postponed from previous week no quorum – October 30, 2012.

### LOCAL HIGHLIGHTS

- ◆ Miigwech to the community and staff who organized, participated and attended the Remembrance Day celebrations on November 9<sup>th</sup>, 2012 in our community, a good meal was had by all and more shawls were given out to our women as a reminder of our past & present warriors, also Miigwech to the staff & flag carriers for the event.
- ◆ Boundaries Clarification Project – the main concern on the agreement is the fact that Wasauksing would have to give up future claims to certain islands deemed to be not likely connected to the island in 1852. We are hoping to negotiate a deal the best deal possible for the community to ratify, but in order to finalize the process could involve submitting specific claim, for lost land and loss of use of those lands. The initial plan was to try to have this agreement finalized and ratified by the upcoming First Nation election but that is looking less likely, updates will follow in near future.

### REGIONAL & NATIONAL HIGHLIGHTS

- ◆ Anishinabek Nation /Union of Ontario Indians, Fall Assembly November 14-15, 2012, Garden River. Focus on the agenda was funding cuts to PTO, ARO & tribal Councils, cuts to Ontario Works discretionary benefits, Constitution Development and Tribal Nation Building, Governance and Education Negotiation update, Consultation and Accommodation importance for Mining and Lands and Resources, and about how we need to and can work together with other First Nations for shared concerns or issues.
- ◆ For Ontario, the Chiefs of Ontario, Fall Assembly is on November 27-29, 2012, Toronto. The focus will be on strategic priorities of Ontario First Nations and again a shared focus on the cuts to First Nations and First Nation Organizations, on improvements and increases in funding for First Nation Education, and the numerous legislation acts being developed unilaterally by the Conservative Government.
- ◆ On the National Front – on December 4-6, 2012, there is a Fall Assembly for the Assembly of First Nations, in Ottawa. The focus will be a shared focus on the cuts to First Nations and First Nation Organizations, on improvements and increases in funding for First Nation Education, and the numerous legislation acts being developed

## **BROADBAND ON WASAUKSING**

Broadband to our community is getting closer to being a reality. Bell is dealing with Fisheries and Oceans Canada since part of the route a fibre feed would have to be, across from Bobs Point in Parry Sound to Deep Water Point on Wasauksing. Once that approval is given construction of the line should progress.

As some of you already know, I've been part of the Broadband Connectivity Working Group with the Chiefs Of Ontario since I retired from Bell Canada over a year ago. The mandate of the Working Group is to develop a business case to present to AANDC to have broadband accessible by every FN in Ontario. The mandate ends at the end of March of 2013 and we expect that the business case will have been submitted to AANDC by that date.

The termination point, or Point Of Presence, for the fibre optic cable, will be at our Band Office in the Community Complex. What we do with it from that point will be strictly up to us. It will be immediately accessible and useable by the band offices and the school; but how we distribute it to the community and perhaps beyond our borders will be our decision to make. My hope is that we make it a community owned enterprise that will be self sustaining and available to community members at a premium.

The idea of making broadband available to all FNs is so FN organizations and members do not get left behind in the information revolution that is currently happening. EHealth is a huge part of the argument.

Hopefully by the summer of 2013 the main information pipe into our community will be a reality.

Councillor  
Vince Chechock

## **EXERCISING OUR RIGHTS AND JURISDICTION AS A GOVERNMENT CREATING OUR LAWS**

The Wasauksing First Nation is now part of a growing number of First Nations that are having their financial management systems certified, and are examining the benefits of implementing a property taxation system. Although Wasauksing is a leader in Ontario, to date 16 First Nations in Canada have enacted Financial Administration Law (FALs), and more than 100 have implemented property taxation systems.

As many of you are aware, in July of this year the Council enacted the *Wasauksing First Nation Financial Administration Law, 2012* (the "FAL"). The FAL came into force on September 24 2012, making Wasauksing the first Ontario First Nation to enact a FAL.

The key to establishing transparency and accountability is to document how we budget, manage and spend and account for funds that are made available for WFN programs and services. This means that Wasauksing has now established a document – "the FAL" – which outlines rules related to financial responsibilities; the creation of financial plans and budgets, spending limits, and how budgets will be amended; expenditures rules and cash management; limitations on borrowing; risk management; financial reporting and capital projects.

The First Nations Financial Management Board (“FMB”) recently issued a Financial Performance Certificate (“FPC”) to Wasauksing. In order to receive an FPC, a First Nation must have enacted a FAL, and must demonstrate excellent financial systems and performance over a period of five years.

Wasauksing First Nation is the first in Ontario, and part of a select group of First Nations from across Canada, who have received an FPC. The Financial Administration Law (FAL) and the Financial Performance Certificate (FPC) demonstrate the Council’s commitment to transparency, accountability and certainty. These documents allows Wasauksing to become a Borrowing Member of the First Nations Finance Authority.

The Wasauksing Financial Administration Law was enacted under the authority of the *First Nations Fiscal and Statistical Management Act*, (“FSMA”), to which the Wasauksing First Nation was scheduled in May of 2011.

The FSMA is an important federal law that was created by First Nations, for First Nations. The purpose of the FSMA is to encourage and support self-governance by First Nations, by allowing them to develop strong financial administration systems and to create a solid foundation for economic development.

In addition to developing the Finance Admin Law, the FSMA, also establishes a process for First Nations to implement property taxation systems, and allows eligible First Nations to leverage property tax revenues. The system of taxation is imposed on non-band members (cottagers), utility companies and incorporated businesses who use reserve lands. Currently, Wasauksing First Nation is subsidizing those individuals/companies by providing them with road access, fire department services and other related services.

A strong property tax base allows the First Nation to borrow, at competitive rates, funds to improve and expand community infrastructure which will benefit everyone.

**A fundamental consideration in the creation of a property taxation system on reserves is that “Wasauksing Band members will not pay property tax on their residences”.** Property taxes would be imposed on non-member residents (cottagers), utilities, and incorporated businesses on reserve who are using Wasauksing reserve lands.

Non-members (cottagers), utility companies and incorporated businesses should contribute to the cost of fire services and police protection, bridge, repairs, water and sewer, and to contribute to the infrastructure on the reserves, such as road improvements, sidewalks, and street lighting. Currently, these services are paid for by Wasauksing First Nation, and are underfunded by AANDC.

For many First Nations, the lack of access to affordable financing stands in the way of development. The FSMA provides an option for First Nations who want to utilize the capital markets in a similar fashion to other levels of government in Canada. The Financial Performance Certificate is the key to accessing long term affordable and sustainable financing through the First Nations Finance Authority (FNFA). The FNFA allows First Nations governments to borrow at rates comparable to those available to other levels of government for major construction and infrastructure projects.

These loans can be used for a number of projects including social development, economic development, housing, infrastructure, land purchases, equity involvement in local and regional business ventures. The FNFA also provides Pooled Investment Opportunities to help grow our community's financial resources for the future. Having received certification, Wasauksing became a Borrowing Member of the FNFA on November 1st, 2012.

The FNFA also allows First Nations to leverage "Other Revenues" besides Property Tax Revenues. First Nations may borrow through the FNFA on the basis of all ongoing, stable, unencumbered, revenue streams, except where the authorities governing specific revenue sources prevent it.

These revenue streams may include any or a combination of the following: gaming, resources, royalties, fuel tax, leases, transfers, band owned businesses, interest, rentals, Impact Benefit Agreements and other "Own Source" revenues. The FNFA will determine the amount of the loan based on the revenue stream and supporting documentation.

What this means to all of us at the "grass roots level" is that now that we have documented our financial rules now called the FAL; had our internal financial processes of operation reviewed and acknowledged as a sound financial system now called the FPC; and we have demonstrated that we are accountable for how we manage our financial resources. These steps allow us, like other levels of government, to become part of a much larger borrowing pool referred to as the FNFA. Once we have either enacted a Property Taxation Law or identified other sources of Revenues we then have the potential to borrow funds for major capital projects. Through the creation of these Laws, we as the governing body and all Wasauksing members will reap the benefits of this change.

A list of web-sites are identified, if you wish to learn more about the First Nation Financial Management Board and the First Nation Financial Authority.

#### **Frequently Asked Questions and Answers**

**Q: What is the Financial Administration Law (FAL)?**

A: The *Wasauksing First Nation Financial Administration Law, 2012* sets out the rules which govern how it will manage its' financial resources, budgets and expenditures and reporting requirements. The FAL is one of the laws that a First Nation can enacted under the FSMA. It was enacted by the Council in July, and was approved by the First Nations Financial Management Board (the "FMB") in September.

**Q: Why did the Council enact the FAL?**

A: The Council enacted the FAL because it wanted to set strict, clear rules for the financial management of Wasauksing and its finances and assets. The FAL is based on financial systems that other governments use, and incorporates international best practices. The FAL creates a system that is transparent and accountable; members can feel confident that Wasauksing's assets are being protected. The FAL ensures consistency, certainty and clarity in decision-making. Having a FAL in

place also helps to build a solid foundation for economic development, and creates increased investor confidence.

**Q: What is the Financial Performance Certificate (FPC)?**

A: The FPC is the Financial Performance Certificate. The FPC is awarded by the FMB to First Nations who meet their strict criteria. Only First Nations with excellent financial practices are eligible to receive an FPC. In order to receive an FPC, a First Nation must enact a FAL (which must be approved by the FMB), and must submit financial statements from the previous 5 years. If those financial statements meet the FMB's rigorous criteria, the FMB awards an FPC. To date, only a handful of First Nations have received an FPC.

Wasauksing recently received its FPC, becoming the first First Nation in Ontario to be awarded an FPC.

**Q: Why did the Council apply for the FPC?**

A: The Council applied for an FPC because it wanted to be able to demonstrate that it has excellent financial practices in place. Having the FPC should give the members confidence in Wasauksing's systems, and will make Wasauksing more attractive to potential investors.

The Council also applied for an FPC so that it could have the option of joining the borrowing pool through the First Nations Finance Authority (the "FNFA").

**Q: Who approves the Laws?**

A: Before the Laws are in force, they must be sent to and approved by the First Nations Tax Commission (the "FNTC"). Once approved, the Laws are published in the First Nations Gazette.

**Q: Can the Laws be amended?**

A: If there are any substantive amendments to the Taxation or Assessment Laws, then the Laws would have to go through the same process as is required for the initial implementation of the laws: notices are published and distributed to all band members and taxpayers, and there is a 60-day period during which the proposed Laws can be reviewed and comments can be made to the Council. If written comments are received then there is an additional 30-day period during which comments can be made directly to the FNTC.

**Q: How does Wasauksing pay for infrastructure, road improvements, fire equipment and other assets and services?**

A: At present, Wasauksing gets its funding from AANDC. The funding currently covers only 75-80% of our true costs for operations and maintenance. This means that we are trying to fund necessary services and projects from a shrinking pot.

**Q: What is property tax?**

A: Property tax is a tax that is charged on an "interest" in land, such as a lease, license or permit. Property tax is charged and collected by a government, and is used to provide services and build infrastructure, to the benefit of the taxpayers and the community as a whole. Property tax is charged to the non-member users of our reserve lands, to recover the costs of providing services and building infrastructure.

**Q: Will band members have to pay property tax?**

A: In the proposed Property Taxation Law, band members are exempt from paying property tax on their residences. Band members who have unincorporated businesses will also be exempt from property tax.

**Q: How does this affect the treaty and Aboriginal rights of Wasauksing members?**

A: The treaty and Aboriginal rights of Wasauksing members are not in any way impacted by the implementation of property taxation. They are protected under the *Constitution Act, 1982*. This is also set out explicitly at section 3 of the FSMA: “For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.”

**Q: I am a Wasauksing member and I operate a business on reserve. Will I have to pay property tax for my business?**

A: If your business is not incorporated, then you will not have to pay property tax. If your business is incorporated, then your company will be subject to property tax.

**Q: Who has the right to charge property tax?**

A: Only a government has the authority to impose taxation, so only the Wasauksing First Nation has the right to charge property tax. Property tax cannot be charged by a corporation, or a landlord. The Wasauksing First Nation has an inherent right to impose taxation, and it has the ability to exert its right under the *First Nations Fiscal and Statistical Management Act* (the “FSMA”).

**Q: What rights will taxpayers have? Will taxpayers have the right to vote for Council?**

A: Taxpayers who are not members will not have the right to vote in Council elections, or to attend Council meetings. The Council could consider enacting a “Taxpayer Representation Law” which would give the taxpayers a way to bring their concerns and suggestions to the Council.

**Q: If Wasauksing imposes property tax, what impact will this have on WLI and its ability to administer leases and collect lease payments?**

A: Property taxation and leasing are two completely separate things. If the Wasauksing First Nation imposes property taxation it will not impact on the right of an entity or individual(s) to enter into a lease or to charge rent. The rent is paid to the landlord, and the tax is collected by Wasauksing First Nation.

**Q: What types of properties would be taxable?**

A: Under the FSMA, Wasauksing would have the jurisdiction to implement property taxation on all of its reserve lands. Only properties held or used by non-members would be taxable. The types of properties and interests that would be taxable would be utilities, incorporated companies, residences occupied by non-members (e.g. the cottages), and companies owned by the Wasauksing First Nation (e.g. marina and sugar bush).

**Q: Are status Indians who are not band members exempt from property taxation?**

A: No. Under the FSMA, Wasauksing can only grant an exemption to status Indians who are Wasauksing band members. But as set out in the next question, a property is not taxable if one of the residents is a band member.

**Q: What if a band member and non-member live together; will the property be taxable?**

A: No. So long as at least one of the residents of the home is a Wasauksing band member, the property will be exempt from property tax.

**Q: What is property tax used for? What protections are in place to ensure that the revenues are not misspent?**

A: Property tax must be used to provide services and infrastructure that benefit the taxpayers and the community. For example, property tax can be used to provide services such as water, sewer, fire and police protection; it can also be used to build infrastructure such as road Improvements, sidewalks, playgrounds and street lights. There are tight restrictions on the use of property taxation revenues. All property tax revenues must be kept in a separate bank account, and can only be spent by an Expenditure Law. Expenditure Laws must be approved by the First Nations Tax Commission.

**Q: How is property tax calculated?**

A: Property tax is determined by multiplying the assessed value of the taxable property by the appropriate rate for that property class. Assessments will be determined in accordance with provincial practice, and the tax rates will be based on the rates in the closest municipalities either Seguin or Parry Sound. Property tax rates will be set each year in a Rates Law.

**Q: What types of Laws would the Council enact?**

A: If Wasauksing goes ahead with property taxation, then it would pass a **Taxation Law** and an **Assessment Law** to establish the property taxation system. The Taxation Law sets out the rules and timelines for assessing and collecting property tax. It also sets out exemptions for certain types of properties, including properties held or occupied by Wasauksing band members. The **Assessment Law** sets out the rules for how properties are assessed. It also sets out a process for appealing assessments. The Assessment Law is based **on provincial practices** as well as the FSMA and its Regulations. Each year the Council would also pass two annual laws. The **Rates Law** establishes the tax rate for each property class for that year. The **Expenditure Law** sets out the budget for the tax revenues for that year.

**Q: If we collect property tax will we lose our funding from Indian Affairs?**

A: The answer is No. Property tax revenues are not considered to be “**own source revenues**”, and so they are not deducted from core funding. First Nations that have implemented property taxation have not had their core funding reduced.

**Q: What is the First Nations Finance Authority?**

A: The First Nations Finance Authority (FNFA) is a non-profit, 100% Aboriginal organization that provides Pooled Borrowing and Investment options to First Nations governments such as

Wasauksing First Nation. The FNFA operates under rules and guidelines of the FSMA legislation.

**Q: Is the First Nations Finance Authority an Auditor?**

A: No. The FNFA is not an auditor, financial control agency, Crown Corporation, division of AANDC or the Government of Canada.

**Q: Who is on the FNFA Board of Directors?**

A: The FNFA Board of Directors is made up of Chiefs/Councilors of the First Nations who have opted to join as Borrowing Members. Between 5 and 6 Directors are elected each year from among the existing Borrowing Members.

**Q: How will Wasauksing First Nation be represented at the First Nations Finance Authority?**

A: Wasauksing will appoint a representative from Council who will have the opportunity to be elected to the FNFA Board of Directors.

**Q: How many First Nations are borrowing members of the First Nations Finance Authority?**

A: There are currently 14 Borrowing Members represented by the FNFA and there are another 99 First Nations scheduled to the FSMA who may also become Borrowing Members.

**Q: What is the “borrowing pool”?**

A: Governments, including many municipalities, are able to access long-term, low-interest loans by joining a “pool”. They issue their own bonds or debentures, which are purchased by banks and investors. Because the total value of their loans is so large, they are able to get very low rates and good terms. The FNFA system is modeled on this practice. First Nations with FPCs will have their loans “pooled” into groups; the pools will get an investment rating and will go out to the capital markets.

**Q: How does a First Nation join the borrowing pool?**

A: In addition to having its FAL and FPC, a First Nation must have a secure revenue stream. Many First Nations use their property taxation revenues for this purpose, but other types of revenue sources can be used, such as revenues from long-term licenses or leases or other agreements, revenues from a First Nation owned-business, or revenues from investments. Only those First Nations with a strong financial record are allowed to join the pool, and part of each loan is held aside in a “Debt Reserve Fund” so that it can be used in the event of a default.

**Q: What are the benefits of becoming a Borrowing Member of the FNFA?**

A: There are many benefits to becoming a Borrowing Member. Membership allows Wasauksing to access financing that is available to all other levels of government but up until recently was not available to First Nations. The FNFA offers 1) Interim Loans below bank prime, 2) Long Term debenture loans at fixed rates and 3) Refinancing opportunities to save Wasauksing on existing fees, interest and bank charges.

**Q: What can FNFA loans be used for?**

A: FNFA loans can be used for a variety of projects such as Economic and Social Development, Land Purchases, Business Partnerships, and Local Assets such as housing, buildings, roads, sidewalks, street lights, parks, arenas, recreation facilities and rolling stock (vehicles and equipment).

**Q: Why would we need to take out a loan with the First Nations Finance Authority?**

A: Not all expenditures can be planned. Roads, street lights, water and sewer infrastructures do not always last as long as budgeted. Having access to financing from the First Nations Finance Authority gives Wasauksing First Nation the peace of mind that financing will be available if we need it for new or unforeseen projects. FNFA loans can be used to invest or purchase shares in large industrial developments happening in the region, such as mining, drilling, energy projects, pipelines, forestry, etc. Wasauksing will have the ability to be a partner in such projects and be entitled to a share of the profits.

**Q: If we take out a loan with the First Nations Finance Authority, will we have to put up our land or assets as collateral?**

A: No, FNFA loans do not require collateral. The FNFA works with our Council and Finance Staff to secure the revenue stream being used to pay the loan. Revenues are directed into a Secured Revenue Trust Account (SRTA) to guarantee repayment. The SRTA is a three-way joint account shared between the First Nation, the FNFA and the Payor. The SRTA can only be changed if all three parties are in agreement.

**Q: Where can I get more information?**

A: Here are some online sources of information on property taxation by First Nations:

First Nations Tax Commission: <http://www.fntc.ca/index.php>

First Nations Tax Administrators Association: <http://www.fntaa.ca/>

Tulo Centre of Indigenous Economics: <http://www.tulo.ca/>

First Nations Gazette: <http://www.fng.ca/>

Cedar Law articles on taxation and FSMA: <http://www.cedarlaw.ca/publications.html>

AANDC fact sheet on taxation by First Nations: <http://www.aadnc-aandc.gc.ca/eng/1100100016434/1100100016435>

Here is the online source of information on FNFA (including Other Revenues): First Nations Finance Authority: <http://www.fnfa.ca/>