

Working under the *FSMA*: Songhees Nation Case Study



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Songhees Nation Case Study: Topics



- Overview of the *FSMA*
- FNTC: Property Taxation
- FMB: FALs, FPPs and Certification
- FNFA: Borrowing Pool
- FNSI: Statistical Information
- The impact of creating change

The *First Nations Fiscal and Statistical Management Act*

- First Nations Tax Commission (“FNTC”)
 - Formerly the Indian Taxation Advisory Board (“ITAB”)
 - Oversee FN property taxation
 - Approve FSMA Laws
 - Recommend s. 83 Bylaws to Minister
 - Develop standards and sample law
- First Nations Financial Management Board (“FMB”)
 - Approve Financial Administration Laws
 - Certify Financial Administration Systems
 - Oversee Financial Administration Systems
- First Nations Finance Authority (“FNFA”)
 - Investment Services
 - Debenture Financing
- First Nations Statistical Institute (“FNSI”)
 - Assist with Statistical Information



Property Taxation: Why Tax at All?



- One of the keys to self-governance and autonomy is economic independence
- Property taxation can generate significant revenue, directly and indirectly
- If a First Nation does not assume tax jurisdiction on its reserve lands, then another jurisdiction may do so

Property Taxation: Two Systems



- Two legal authorities for property taxation of Reserve Lands in Canada:
 1. Section 83 of the *Indian Act*
 2. The *First Nations Fiscal and Statistical Management Act* (the “FSMA”)
- FSMA is a more advantageous system for generating revenue
 - flexibility and responsiveness of FNTC
 - similarity to off-reserve system
 - ability to borrow against tax revenues
 - enforcement provisions

Property Taxation: Increasing your Tax Base



- Property tax → better services and infrastructure, e.g.:
 - street lighting
 - sidewalks
 - garbage, recycling, composting
 - library
 - community centre
- Better services → more taxpayers → more revenue
- New taxpayers bring lease revenue to Nation or members
- Other possibilities for generating revenue:
 - Development Cost Charges
 - Local Improvement Charges

Property Taxation: Next Steps



- Other possible laws through the FNTC:
 - Long-term Capital Borrowing Law
 - Borrowing Agreement Law
 - Development Cost Charges (“DCC”) Law
 - Local Service Charge/Service Tax Law
 - Business Activity Tax Law (in development)

Financial Administration Law: Why Enact a FAL?



- Efficient management of financial resources
- Improve transparency and accountability to members
- Improve investment climate
 - Similarity to off-reserve system gives investors comfort
 - Laws and policies provide certainty
- Increase the First Nation's administrative capacity
- Access to borrowing
- Moving at the speed of business

Financial Administration: Developing a FAL



- Songhees Law Contents
 - Administration
 - Council, Financial Advisory Board, Officer and Employees, Conduct Expectations
 - Financial Management
 - Financial Plans and Annual Budgets, Financial Institution Accounts, Expenditures, Borrowing, Risk Management, Financial Reporting, Information and Information Technology
 - Capital Projects
 - Conflict of Interest Regulation

Financial Administration: Financial Policies and Procedures



- Detailed policies and procedures that outline how the financial administration system is to be operated
- Includes an organizational chart of the First Nation
- Expands on the job duties of key personnel, as outlined in the FAL
- Expands on the role and duties of the Finance and Audit Committee
- Mandatory topics include: Integrated Planning, IT Controls, Audit, Tangible Capital Assets, Bank Accounts, Guarantees and Indemnities
- Do not underestimate the scope of the work!

Financial Administration: FAL & FPP



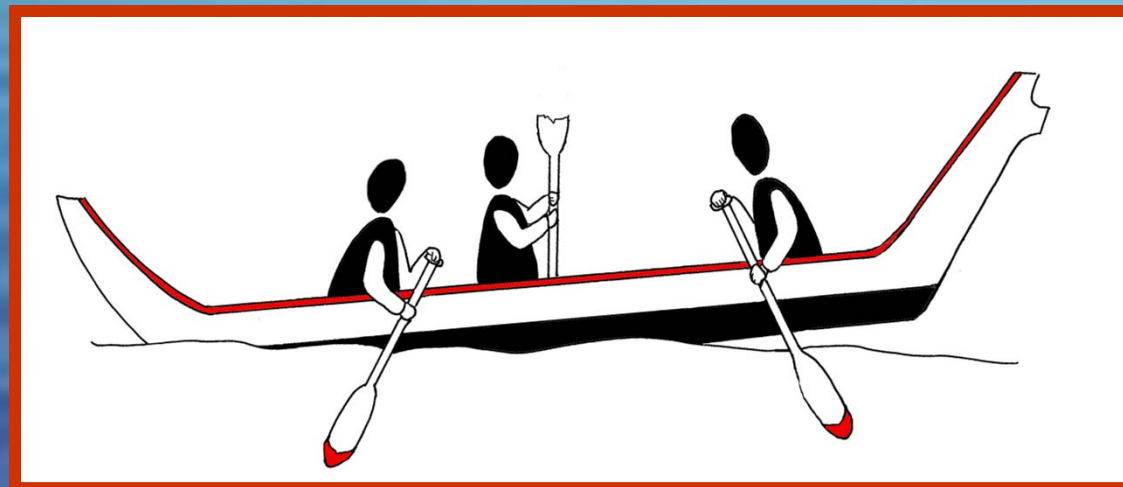
Things to Consider:

- Time and Money
- Human Resource Capacity
- In-House or Consultant?
- Team Approach
- Sample Laws
- Common Vision



Songhees Financial Administration 'Before'

- Making the most out of limited resources and limited capacity
- Managing poverty
- Reacting to forces beyond our control



Songhees Financial Administration

Linear Thinking



First Nations Government Programs and Services

Health, Education,
Social Development
services to
Community
Members

Funded by
Government
Transfers and
Grants

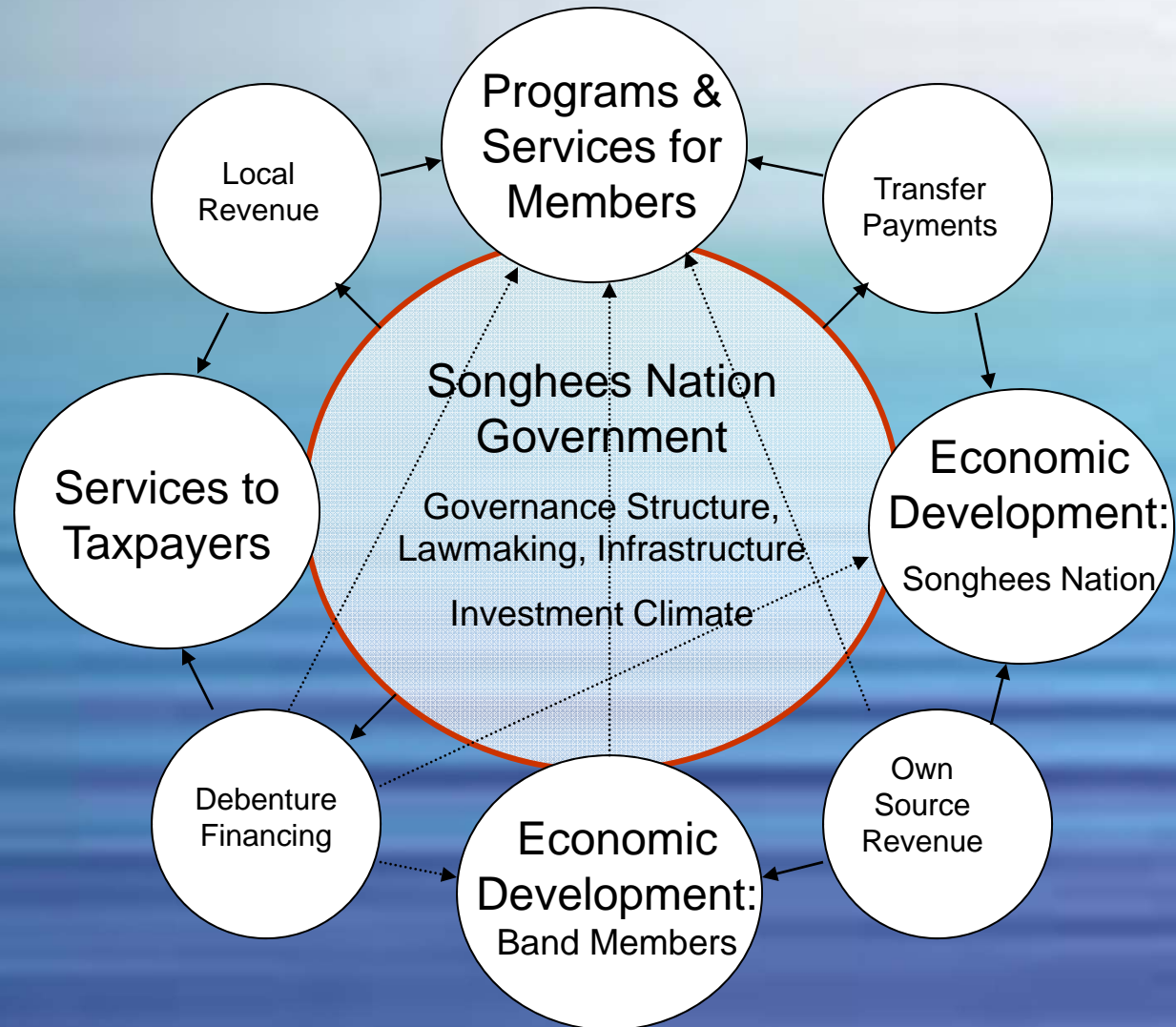


Local Government Services

Sewer, water, fire
protection
services to
commercial
properties

Funded by Local
Revenue
(Property
Taxation)

Songhees Financial Administration 'The Bigger Picture'

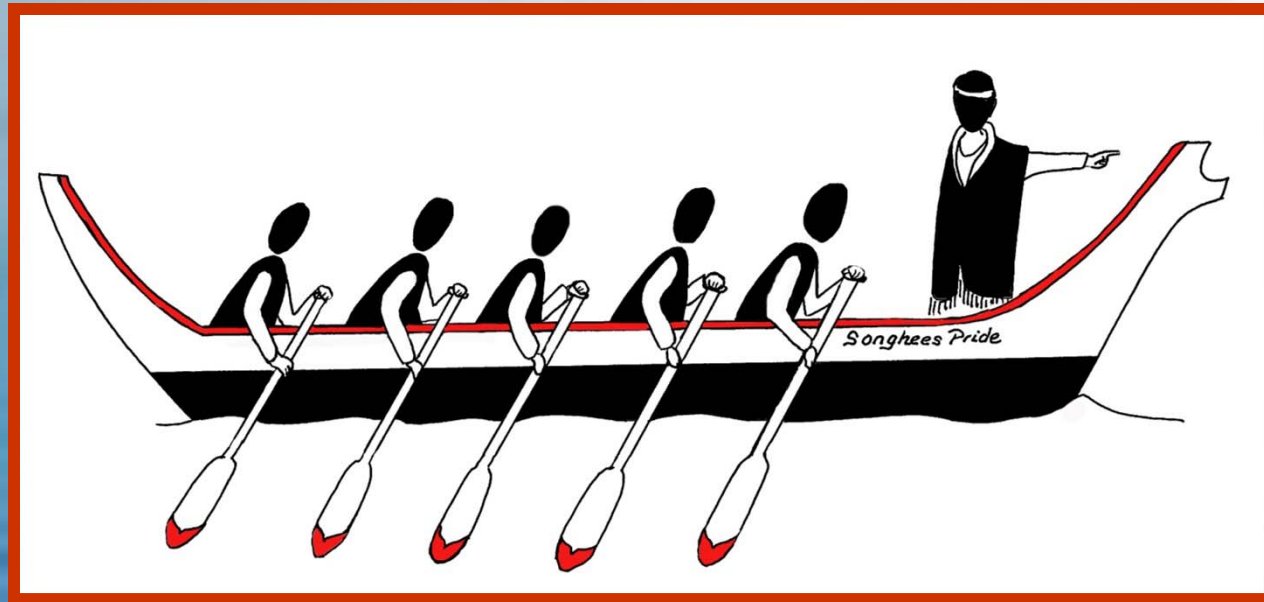


Songhees FAL/FPP Team

- Chief and Council
- Legal Counsel
- Director of Operations
- Senior Finance Officer
- Finance Officer
- Tax Administrator
- Human Resource/Policy Consultant



Songhees Financial Administration



Songhees First Nation Financial Administration Law, 2009

On December 15, 2009, the First Nations Financial Management Board approved the *Songhees First Nation Financial Administration Law, 2009*.

This is the first Financial Administration Law passed under the *First Nations Fiscal and Statistical Management Act*

..... and then the real work began!



“We’ re laying the foundation for the future social, cultural and economic wellbeing of our people.”

- Chief Robert Sam

Implementing the FSMA

- Songhees First Nation Property Tax Law, 2008
- Songhees First Nation Property Assessment Law, 2008
- Annual Rates and Expenditure Laws since 2008
- Songhees First Nation Financial Administration Law, 2009
- Songhees First Nation Taxpayer Representation Law, 2010
- Coming soon: Songhees First Nation Borrowing Law



Borrowing Pool: How the FNFA Works



- Infrastructure is required for development to occur
- Most FNs have not had access to long-term low interest borrowing
- Small municipalities had the same problem until the MFA was formed
- FNFA will provide debenture financing in the form of pooled borrowing for infrastructure using local revenue or other OSR for debt servicing
- FNs will be able to borrow up to 10X annual tax income

Borrowing Pool: How the FNFA Works



- Bond Market Demands:
 - Secure property tax system
 - May be able to use other OSR (e.g. long-term leases, IBAs etc.)
 - Sound financial administration
- Eligible FNs will be placed into borrowing pools of ~5 to 10 FNs with similar profiles, risk levels
- Members of the borrowing pool cover the debt in the event that a member defaults on the loan
 - In the MFA, default has not happened

FNFA: The Road to Borrowing



- FNTC: Local Revenue Laws
- FMB: FAL and FPP
- FMB: Operational Review and Certification
- FNTC: Borrowing Law
- FNFA: Borrowing Pool

FNSI: The Fourth Institution



- FNSI is up and running
- Mandate is to provide information to support the work of the other institutions
- Songhees Nation has not worked with FNSI yet
- Things we hope to gain:
 - More accurate membership data
 - Census Data for Reserve Lands



Impact of Creating Change



- Benefits
 - ‘Raising the Bar’
 - Band member confidence
 - Investor confidence
 - Human Resource management
 - Policies increase efficiency
- Challenges
 - Growing Pains
 - Time Consuming
 - Cost



Questions?



THANK YOU!

Kathryn Deo, Cedar Law

kdeo@cedarlaw.ca (250) 298-8178

www.cedarlaw.ca

Christina Clarke, Songhees Nation

taxation1@songheesnation.com (250) 383-3719

