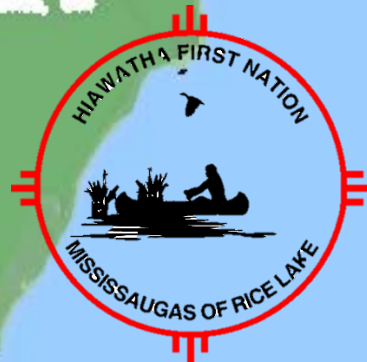


# Hiawatha First Nation Land Code UPDATE





# Timeline of Events



## 2017

- Chief Laurie Carr signed an adhesion to the Framework Agreement
- This gives us the opportunity to explore the option of developing our own Land Code with funding provided by Canada

## 2018

- Land Code Development Committee formed -started developing Land Code
- Natural Resources Canada prepared a research report on existing information of the exterior reserve boundaries. NRCan presented to Chief and Council
- Phase I ESA commenced

## 2019

- Land Code Development Committee developed first draft Land Code and Community Ratification Process
- Survey work commenced for land description
- Community meetings



# Hiawatha Land Code

What's in the Land Code?

# Preamble



- Explains purpose of the Land Code and a brief history
- Refers to the *Framework Agreement on First Nation Land Management* and the *First Nation Land Management Act*, S.C. 1999, c.24



# Part 1: Preliminary Matters



- **Definitions** - for words commonly used throughout the Land Code
- **Interpretation** - provides context/clarity
  - Shall be interpreted in accordance with Hiawatha language, culture, traditions and customs
  - Does not affect Aboriginal, Treaty or inherent rights or freedoms, now or in the future

Con't...

# Part 1: Preliminary Matters



- **Authority to Govern** - describes how Hiawatha's collective rights and responsibilities flow from the Creator
- **Description of Land** - Hiawatha's reserve lands are described (LDR)
  - Lands can always be added (land claim, addition to reserve, etc.)



# Part 2: First Nation Legislation



**Law Making Powers** - what kinds of land-related laws can be made for:

- development, conservation, protection, management, use and possession

**Law Making Procedure** - how laws are made:

- proposed at Council Meeting in writing
- provided to HFN Citizens & Lands Committee
- emergency laws

Con't...

# Part 2: First Nation Legislation



- **Publication of Land Laws** - Land Laws will be published in Council Meeting Minutes, at the Admin. Office, and on the website
- **Enforcement** - Hiawatha will be able to:
  - establish offenses that are punishable on summary conviction
  - Provide for fines, imprisonment, restitution, community service, etc.
  - Establish procedures and land laws for enforcement
  - Retain a prosecutor, appoint a Justice of the Peace, enter into an agreement with Ontario for a provincial prosecutor



# Part 3: Community Meetings & Approvals



- **Participation** - every Hiawatha Citizen has the right to participate in meetings. Every Eligible Voter has the right to participate in the Community Approval Process.
- **Community Meetings** - meetings will be held for adding lands, land laws, heritage/enviro sensitive sites, etc.
- **Procedure at Meeting** - written notice of a meeting posted publicly, in newsletter, and delivered by (e)mail

Con't...

# Part 3: Community Meetings & Approvals



- **Community Approval** - is needed for:
  - any master land use plan
  - interest or licence in HFN land longer than 35 years
  - non-renewable natural resource use longer than 5 years
  - deletion of a heritage site
  - voluntary exchange of land
  - any other Land Laws Council wishes to have community approval for

Con't...

# Part 3: Community Meetings & Approvals



## Community Approval

Eligible voters must vote by:

- polling locations
- show of hands
- mail-in ballots
- phone voting
- electronic voting
- etc.

50% +1 of those who vote can decide on the matter

Con't...

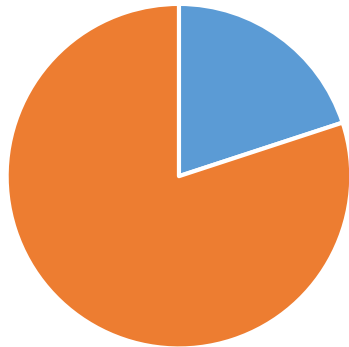


# Part 3: Community Meetings & Approvals



## Ratification Vote

Quorum of 541 Voters



■ 20% = 108 voters

■ 80% = 433 voters

A ratification vote is needed for changing the Land Code.

for quorum, at least 20% of all eligible voters must register to vote (similar to Land Code vote).

50% +1 of those who vote can decide on the matter.

# Part 4: Protection of Land



- **Expropriation** – Hiawatha will have the ability to expropriate but only after a good faith effort to reach mutual agreement.
- No expropriation can happen until a Land Law is made for the rights and procedures.
- Can only happen for necessary community works (fire hall, sewage, school, utilities, etc.)

Con't..



# Part 4: Protection of Land

**Voluntary Land Exchange** - Hiawatha may agree with another party to exchange some land.

- Any voluntary land exchange must receive community approval.
- Must become reserve land, must be same size or bigger, and be comparable appraised value.



# Part 5: Accountability



- **Conflict of Interest** – Conflict of Interest rules apply to Council, employees, committee members and the dispute resolution panel when dealing with any matter related to HFN land
- **Financial Management** – Council will develop, adapt or adopt Financial Management laws or policies that would apply to HFN land and natural resources
- **Annual Report** - Hiawatha will report only to its Citizens, no more reporting to Indigenous Services Canada



# Part 6: Land & Natural Resource Admin

- **Land Staff** – Council may delegate admin authority to staff to carry out day to day functions of land and natural resources
- **Lands Committee** – A Lands Committee will be established to take on the following responsibilities:
  - assist with the development of the Land administration system;
  - advise Council and its staff on matters respecting Hiawatha First Nation Land;
  - recommend Land Laws, Resolutions, policies and practices respecting Hiawatha First Nation Land to Council;



# Part 7: Interests & Licences in Land

- **Revenue** - Hiawatha can set the fees and rent for interests and licences in HFN land. Payment will be made directly to HFN, no Indigenous Services Canada involvement
- **Separate HFN Land Register** – Hiawatha will keep all original docs
- **Limits on Interests and Licences** - can make our own standards, criteria, and forms

**Con't...**





# Part 7: Interests & Licences in Land

- **Existing Interests** - will continue as normal (ie: no change to existing CP's)
- **New Interests or Licences** - can grant new interests (CP's, Citizen allocations, leases, permits, easements, right of ways, etc.) can grant new licences for minerals, stone, sand, clay, soil, etc.

Con't...



# Part 7: Interests & Licences in Land

- **Interests of Non-Citizens** - any part of a lease or licence transferred to a non-Citizen is only valid with a FNCR from Council
- **Certificates of Interest** - any CP's previously issued continue as normal
- **Allocation of Land to Citizens** - only Citizens can hold a permanent interest in HFN land

**Con't...**

# Part 7: Interests & Licences in Land



- **Transfer and Assignment of Interests** - Citizens can freely transfer their interest to other Citizens without Council approval
- **Mortgages and Seizures** - sections 29, 87, 89 (1) and (2) of the *Indian Act* still apply. Citizens can mortgage their interest (CP, lease, etc.) with Council's written approval

Con't...



# Part 7: Interests & Licences in Land



- **Mortgages and Seizures** - if a lease mortgage defaults, it can only be possessed by chargee/ mortgagee (ex: bank), power of sale, etc. if it:
  - had written approval from Council
  - was registered in the FNLRS
  - reasonable opportunity was given to Council on behalf of HFN to redeem it

Con't...

# Part 7: Interests & Licences in Land



- **Transfers on Death** – ISC will continue to handle wills and estates
- **Matrimonial Real Property** - HFN will develop a law for the rules and procedures for the breakdown of a marriage. Will apply to:
  - Use, occupancy and possession of HFN land
  - Division of interests in HFN land
  - Division of value of improvements in HFN land

# Part 8: Dispute Resolution



- **Disputes** - Citizens and non-Citizens will be able to access the dispute resolution process of the Land Code
- **Processes** - negotiation, facilitated discussion, mediation, negotiation and arbitration by Dispute Resolution Panel
- **Roster Panel** - maximum of 15 panelists to be appointed representing various elements of the community

Con't...

# Dispute Resolution



- **Impartiality of Dispute Resolution Panel** - cannot act with bias or favour to any party to a dispute
- **Arbitration by Dispute Resolution Panel** - disputes will be heard by 3 of the roster panelists Dispute Resolution Panel
- **Powers of Dispute Resolution Panel** - will hear the dispute and make the final decision. The decision is binding but subject to review by Federal Court (Trial Division) may obtain service of professionals



# Part 9: Other Matters



- **Liability** - will have liability insurance for HFN officers and employees to indemnify them against personal liability
- **Offenses** - summary conviction procedures of Part XXVII of the Criminal Code will apply to offenses under the Land Code and Land Laws unless HFN creates some other procedure
- **Revisions to Land Code** - no ratification vote is required for:
  - land description amendment
  - wrong and expired clause referencing
  - grammar and typographic errors
  - minor improvement to language without changing substance

**Commencement** - the Land Code & Individual Agreement will take effect if the community approves it

# Next Steps



- Finalize Land Code
  - Community meetings and input (on and off reserve)
  - Legal review
  - Review by the Verifier
- Negotiate Individual Agreement
  - Between HFN and Canada (ISC), contains technical aspects of the transfer (land involved, addressing environmental concerns, funding, etc.)
- Communications
  - Locating Citizens, updating contact information
  - Informing eligible voters, HFN youth & Elders
- Vote
  - Send out voting packages, notices of vote
  - Voting options: online, telephone, mail-in, in person





# Miigwetch.

Questions?