

Hiawatha First Nation Land Code

Questions & Answers

There have been a number of questions and comments presented recently about the proposed Land Code which need to be addressed and shared with as many HFN Citizens as possible.

The purpose of this piece is to provide you with responses which will help to clarify any misconceptions or misinformation as well as ensure you have all the details you need to make an informed decision. You will note that the responses are broken down into categories as there has been a common theme in the nature of questions and in this manner, it allows us to cover off any similar questions with the one response.

The proposed Land Code and the Individual Agreement with Indigenous Services Canada (ISC) can be found on the Hiawatha website along with the three presentations provided at community meetings. These presentations walk you through the Land Code, explain specific sections and offer examples of how the new Code would be applied.

As always, you can reach out to members of Council, the Land Code Committee or through the Q&A function on the Land Code section of the HFN website if you have any questions or concerns you wish to raise.

QUESTIONS/COMMENTS	RESPONSES
1. Why do we need to move to a Land Code? Why not stay with the Indian Act?	The Land Code allows Hiawatha to assume care, control and management over our lands and means we no longer have to defer to the Minister and the Crowns' colonial land system, for approval. It's transformative change which turns control of decisions such as land use planning, environmental stewardship and the potential for economic development over to the Citizens of Hiawatha and allows us to protect our lands for future generations. The Land Code brings Hiawatha lands under the jurisdiction of Hiawatha Citizens, increasing transparency and making Council accountable to the Citizens, not the Minister. It provides for more efficiency in the management of our lands. It includes all HFN Citizens, whether living at home or away, in the decision-making process as <i>all</i> laws must be presented for community input and review. It protects against arbitrary expropriation or surrender of our lands by the Crown. It recognises Hiawatha-made laws in the Courts. It creates our own legal land registry system. It requires Hiawatha Citizens to be involved in the creation and approval of <i>all</i> laws so that these laws reflect our values, traditions, practices and culture.
2. Is the Land Code self-government?	The Land Code removes Hiawatha from coming under 44 Sections of the <i>Indian Act</i> and as defined by Canada, is considered a "sectoral self-government" initiative. It is not a move toward full self-government but rather is specifically focused on returning care, control and management of our lands to the Citizens of Hiawatha both now and for our future generations. The creation of the Land Code achieves jurisdiction of Hiawatha lands for the Citizens of Hiawatha, allowing us as we do, to grow our governance effectiveness and efficiency.

QUESTIONS/COMMENTS	RESPONSES
<p>3. CP holders will lose their rights and title to the land and will no longer have exclusive ownership</p>	<p>At the outset, Certificates of Possession (CPs), are grants of exclusive possession of land, not title or exclusive ownership as is common on non-reserve lands. The underlying legal title to reserve land is held by the Crown. The Land Code only deals with possession and use of lands, not legal title. The Land Code refers to “Interests in land” which are exclusive possessory rights to the land and can only be transferred by the CP holder. “Interests” include: CPs and Leases, Rights of Way and Easements. All CP-held land will be grandfathered into the Land Code and will continue in effect, unchanged. As has been noted, if they were lawful before the Land Code, they will be lawful afterward. Licenses and permits are not “Interests in the land”. Once the Land Code comes into force, all land transactions will have to follow the procedural parts of the Land Code and any changes in an Interest or a License will have to conform to the Land Code and any applicable land laws such as a Land Use Plan or Environmental requirements.</p>
<p>4. Council will assume control over all HFN lands and make unilateral decisions without community involvement or consultation.</p>	<p>This comment and/or claim about Council is absolutely false! Chief and Council is called upon to make sure the Land Code is followed and respected as well as all laws which flow from the Land Code. Let’s break this response into two parts - what can be done under the <i>Indian Act</i> versus what is required under the Land Code. Under Sections 81 and 83 of the <i>Indian Act</i>, Council can enact, right now, various By-Laws without input or approval from HFN Citizens. These can cover a wide variety of issues such as fire burning, hunting, fishing, vehicle use, dogs at large, etc. These don’t address environmental powers however other than the “destruction and control of noxious weeds” and the “preservation, protection and management of fur-bearing animals”. If Council was going to run rough-shod over the community, making unilateral decisions, it stands to reason there would be no need to advocate for a Land Code. Under the Land Code <i>all</i> land laws are required to be submitted to the community for input and/or approval with a mandatory notice period of 21 days prior to any enactment. The Land Code increases Councils’ accountability to the Nation, not the Minister. It takes away the ability to act unilaterally and ensures there is community involvement in all decisions. Also of importance to note is that, under the Land Code immediately after ratification, Council is required to develop a Comprehensive Land Use Plan and an Environmental Stewardship Regime, <i>both of which will need community approval</i>. These will result in rules being in place to review land development applications and the criteria for making decisions.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>5. I hear there will be increased costs to CP holders, especially as relates to leased land? I also hear HFN Citizens be taxed.</p>	<p>Leases, like CPs, are grandfathered into the Land Code and remain in force. The current user fees in place will also remain. There is one area where there will be a change and that relates to appraisals for the Leased properties. Currently ISC covers the costs for the Lease appraisals. That will cease once the Land Code comes into force. It means the CP holder will need to cover those costs themselves and in most cases it's assumed these will be passed through to the tenants as part of their annual payment to the CP holder. We don't believe these appraisals should be covered by Hiawatha First Nation as that would not be fair to all other Citizens who would be asked to cover costs for a CP holders lease -something from which they receive no benefit.</p> <p>Now let's talk about Taxes. <i>No</i> HFN Citizen will be taxed under the Land Code and no tax law can be passed under the Land Code without the full consent of the community! It should be noted that the ability to charge taxes to HFN Citizens is already permitted under the <i>Indian Act</i>. If current or previous Councils had thought that taxation was an acceptable idea or something the Nation desired, wouldn't there be taxes in place already?</p>
<p>6. Can a new Council change the Land Code?</p>	<p>Yes and No. Once the decision is made to move to the Land Code there is no going back to the <i>Indian Act</i>. We do have the ability to revisit the Land Code and make revisions over time, especially in areas where references in the document to other clauses or legislation has been amended, repealed or suspended but not substantive changes.</p>
<p>7. Does Hiawatha have the capacity to take on the Land Code and will it need to charge fees to HFN Citizens to cover the costs?</p>	<p>Hiawatha currently receives approximately \$55,000 per year to cover our Land management responsibilities. Under the Land Code, those fees rise to approximately \$280,000 per year beginning in the first year of operation and increasing annually based on a prescribed formula. There will be an additional \$75,000 in year 1 and year 2 to assist with the transition. HFN will also be receiving monies held in trust by Canada, which amount to approximately \$260,000, once the Land Code is ratified. You can view the financial details in Annex 'A' of the Individual Agreement on the Land Code website. There will be costs involved in creating the new laws and setting up the new Lands team but these costs will be covered by ongoing funding, return on our current investments and through funding opportunities at the federal and provincial level. No fees or charges will be levied against HFN Citizens for this work.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>8. Why are we in such a rush toward ratification and why now, when we're in the midst of COVID?</p>	<p>The idea of creating a HFN Land Code was first discussed by Council in 2016 but work in earnest didn't commence until 2018 with an inaugural event in July of that year. We have, over the past three years, put together a Committee made up of community representatives, created the website as a means to share information and offer a place for people to raise questions, have held numerous community meetings, shared information on social media and as well, reported out from Council on a regular basis. Our goal from the start has been to reach as many people as possible using a wide variety of approaches. We have moved the ratification date a couple of times to address feedback received, make changes required to the wording of the Land Code and to meet the requirements set out by the Framework Agreement for the ratification. We believe we have created a Land Code which captures the feedback and addresses the needs of all Citizens of Hiawatha. As to the question of COVID, we believe we can safely and effectively undertake the ratification process by offering three ways in which people can participate in the process; voting online, voting by mail or voting in-person at the Lower Hall. People can decide which process works best for them. As to voting in-person, we will observe all of the COVID protocols Hiawatha has in place, have all protective items available and in use on the day and will draw on the experience in supporting people coming to the Lower Hall gleaned from both the Council election and the Vaccine Clinics. The date for ratification is set for May 15th. By that time almost everyone from Hiawatha should have had their first COVID vaccine shot with the large majority having received both shots. We will also have passed the two-week period, post-shot.</p>
<p>9. Currently HFN Citizen's who possess Individual Land Holdings are issued a 'Certificate of Possession' as per Section 20(2) under the Indian Act. A Certificate of Possession (CP) is evidence of his/her right to "possession" of the land described within the CP. A Certificate of Possession is the closest a First Nation Citizen can get to 'Fee Simple' ownership, which in mainstream is 100% ownership in the Land, because "Her Majesty the Queen has a vested interest in all First Nation Lands"</p> <p>With 'Draft' HFN Land Code 'Individual Land Holdings' would now be known as "Interest" not 'Certificate of Possession'. If HFN Land Code passes ratification all Individual Land Holdings, regardless of current title (CP, Lease, Right of Way, Easement) would all fall under the definition for 'Interest'.</p> <p>Question - If HFN Land Code passes 'HFN Citizens' who currently have Individual Land Holdings would no longer have possession of their land (CP as per Section 20(2) of the Indian Act) but would now merely have an "Interest" in that land? Is this correct?</p>	<p>No. Certificates of Possession (CPs) are not affected by the Framework Agreement and Hiawatha's Land Code. As you note, a CP is not ownership, as legal title remains with the Crown. Individuals are given allotments which provide the right to use and occupy a parcel of Reserve land. The evidence of this right is acknowledged through the granting of the CP. CP holders will continue to have these same rights of possession to their land under Hiawatha's Land Code. See section 16 of the Framework Agreement and sections 29 and 32 of the Land Code for more information on this topic.</p> <p>Interests and Licences are broad terms used in the Land Code to describe a number of land holding types found in Hiawatha, including Certificates of Possession, leases, permits, right of ways, etc. This means that whenever the terms "interest and licence" are found in the Land Code, it is referencing these types of land holdings. All of these interests and licences continue to exist after the enactment of Hiawatha's Land Code. They are not reduced or diminished in any way.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>10. What would be held as collateral when borrowing against First Nation land?</p>	<p>No. First Nation land cannot be used as collateral. All reserve lands are ultimately owned by the Crown, and are set aside for the use and benefit of its members/citizens. First Nations do not have deeds to land. Certificates of Possession are utilized to show ownership, which gives Indigenous peoples the right to use, live on, hunt, etc. on the land. We can sell/transfer land to other First Nation Citizens within your First Nation, but a non-Indigenous person cannot 'own' band land, which is why it cannot be used as collateral.</p>
<p>11. Can you provide the step by step process to ratify/vote on the Land Code together with step by step process to have a second ratification/vote if the first ratification/vote doesn't meet the majority required?</p>	<p>The Community Ratification Process (CRP) document is the step by step process to vote on the Land Code and the Individual Agreement. Once the CRP has been verified to be in alignment with the Framework Agreement, it is a requirement to post it on our website so that everyone will have access to it. Citizens can also request a paper copy. If HFN Citizens vote 'no' to the Land Code, it is up to Hiawatha First Nation Council, in consultation with the Community, to determine if we wish to have a second vote. This vote would be conducted in the same manner (by developing a community ratification process) and following the outlined procedures and steps.</p>
<p>12. What percentage of Hiawatha First Nation Certificate of Possession (CP) holders were consulted in the development of the Land Code? Can you provide real numbers? In other words, how many CP holders are in HFN and how many commented on the new code?</p>	<p>We haven't specifically targeted CP holders in the development of the Land Code, or our communications around it. The Land Code applies and is of interest to all Citizens of Hiawatha, whether they live at home or away and whether they are CP holders or not. We also haven't asked anyone providing commentary or questions, to identify if they are CP holders or not. We have simply taken any questions as/when raised and answered them as best as possible, engaging our colleagues at the Lands Advisory Board Resource Centre to assist when needed. We will be convening additional meetings in the coming weeks, some for the community at large and some, if requested, at a family level, to ensure as much information as possible is disseminated. The recommendation to hold a meeting, specifically for CP holders, has been raised and we are looking at how to facilitate this targeted session.</p>
<p>13. How do we plan to protect our shore line?</p>	<p>The Land Code will allow Hiawatha to exercise much broader powers over our lands, providing more direct control and in response to community-identified needs and priorities. Hiawatha will be able to develop new laws on a variety of matters, such as shore line protection, environmental protection, community development, dispute resolution. etc. which reflect not only communities priorities but also our values, practices and traditions. Laws are enacted through community involvement, participation and approval unlike the Indian Act, where laws can be enacted without the input or approval of HFN Citizens. It will be your voice which directs Councils actions and decisions through the enactment of community approved rules.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>14. How long does it take to get a reply or answer? I send one about 3 weeks ago never got a response. I know of other members who said the same, because of this I will be voting NO ! and I am suggesting to family members to do the same.</p>	<p>We apologise for the delay in getting back to you with a response to your question. As we're sure you can appreciate, we've been very busy putting together the information required to meet the deadlines and process established to move forward with the Land Code ratification process as well as managing the various day-to-day operational needs of the Lands department, especially during this difficult COVID period.</p> <p>We're sorry to hear you've decided to vote against something as positive and important to Hiawatha and its Citizens as the Land Code, based simply on a delay in responding to your questions. There are many reasons to support the Land Code and we hope you would consider these as you speak with your family about the vote.</p> <p>The land code offers transformative change and allows Hiawatha First Nation to assume care, control and management of our lands from Canada. It removes us from 44 sections of the Indian Act. If the last 150+ years, living under the control of the Indian Act and our lands under the control of the government of Canada, is acceptable to you, then we understand why you feel this way. Our desire however is to see Hiawatha lands under the jurisdiction of the Citizens of this Nation. We achieve jurisdiction through the creation of our Land Code.</p> <p>The Land Code serves many other positive benefits other than just bringing Hiawatha out from under the Indian Act and returning control over the management and development of our lands. It increases accountability and transparency by Council to the Citizens of Hiawatha; it provides for more efficiency in the management of our lands; it includes all Hiawatha Citizens, whether you live at home or away, in the decision-making process; it protects against arbitrary expropriation or surrender of our lands by the Crown; it recognises Hiawatha-made laws in the Courts; it creates our own legal, land registry system and; it requires the Citizens of Hiawatha to be involved in the creation and approval of laws so that these laws reflect our values, traditions, practices and culture.</p> <p>We would hope that you will consider these and the numerous other benefits which fall to the Nation, as you make your decision.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>15. So if I vote YES, then c&c gets to decide what happens to everything down there? Sounds sketchy.</p> <p>“Land Laws will be the basic land law of the FN and will replace the Land Management provisions of the Indian Act (FNLMRC). Further they will have the force of law and give HFN Chief & Council Authority and Control over all HFN Lands (whether HFN Community Lands or Individual Land Holdings – (Certificate of Possession Title). This Authority and Control significantly and permanently relinquishes all Title & Rights HFN Citizens currently have as Individual Land Holders (CP Title)...Section 20(1) of the Indian Act.”</p>	<p>Your comment that the Land Code will give Chief & Council authority or control over all HFN lands is false. The Land Code does not take control away from those who hold a CP. CPs are grants of exclusive possession, not legal title to the land. All CP holders will have their interests in the land ‘grandfathered’ under the Land Code. They will continue to enjoy their right to possession. The same goes for those CP holders who have leases in place as these too are grandfathered. The Land Code does do away with 44 sections under the Indian Act and returns care, control and management of HFN lands to the Citizens of Hiawatha. That’s a good thing! C&C do not get to “decide what happens to everything”. In fact, the full community is required to be engaged, consulted and in many cases such as developing land use plans or environmental plans, required to ratify these new laws. The Land Code turns the decision-making process and priority setting over to the Citizens of Hiawatha. C&C do have a role to play in ensuring the Land Code is followed as well as all laws which flow from it. It actually increases Councils accountability and transparency to the community in ways the Indian Act doesn’t address. The Land Code absolutely does not “significantly and permanently” relinquish all “Titles and Rights HFN citizens currently have”. As said, CPs are not title to the land. The Code, in fact, works to reinforce the manner in which land laws are created and the community is involved. We’d be happy to discuss the Land Code with you in more detail, pointing you to the various sections which will help correct your misunderstanding and in doing so, hopefully assist you in appreciating that the Land Code is about HFN citizens assuming jurisdiction and control over our lands, able to make decisions and laws for ourselves.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>16. When was the last time a law was enacted under the Indian Act without C&C input or consultation and doesn't Section 81 By Law Making Authority allow for C&C to make bylaws for Environment, Zoning etc. Section 81 will continue to apply even if the Land Code is ratified?</p>	<p>Thank you for your question. You referenced Section 81 of the Indian Act and asked when laws were enacted under it without Chief and Council input or consultation. We assume you mean without Chief and Council seeking community input or consultation. We must also assume, on the basis of your question, that you're familiar with Indian Act requirements and therefore know that By-laws are enacted under the Indian Act by Chief & Council, without the requirement for any input from Citizens. The Land Code changes that requirement and contains provisions, as well as processes, under which Council is accountable to and must come to the Citizens of the Nation to obtain approval and input including being required to provide an annual land management report covering all land management issues and revenues.</p> <p>The second part of your question about Section 81 and its application after ratification of the Land Code, needs to be clarified. Section 81 of the Indian Act confers power on Chief and Council to make By-laws "not inconsistent with this Act or with any regulation made by the Governor in Council or the Minister" on two topics which would be considered part of environmental law, i.e "(j) the destruction and control of noxious weeds" and "(o) the preservation, protection and management of fur-bearing animals, fish and other game on the reserve." The Indian Act does not grant Chief & Council authority to enact Bylaws governing: environmental assessment; environmental permitting; authority to create inspection, investigation and prosecution of environmental complaints or of the performance of environmental terms and conditions incorporated in an environmental permit, nor; authority to non fur-bearing animals, non-game fish or birds nor flora other than noxious weeds. The Land Code provides Hiawatha First Nation with the power to develop our own environmental assessment and environmental protection regime in consultation with Citizens, all the while being mindful of our traditional values, practices and culture.</p> <p>I think you would agree the Land Code will offer us more direct control and broader power over our lands to respond to the needs and priorities of the community.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>17. I thought the Code presentation was well done. I have a few questions and comments.</p> <p>Disputes: If agreed to by those concerned, it was suggested there would be a mediator/facilitator and/or arbitrator appointed by council. This would be an alternative to going before a judge/justice of the peace. Would it not make sense the person appointed to mediate/facilitate be agreeable to both council and the other party? This may avoid an actual or perceived bias in the process.</p> <p>Annual Meeting: Would the proposed annual meeting where council updates community regarding land and land activities under the code include specific reference to transfers of land amongst family and community members?</p> <p>Environmental Regulations: As I understand it the FN environmental laws/regulations are to be developed at a future time in keeping with the requirements of the Land Code Agreement with the Government. The lawyers today said they worked with a FN where it took 3 million dollars in lawyer fees to create their environmental regulations. Such environmental regulations and the capacity to enforce are extremely important. Is there an estimated costing for the research and development of such environmental regulations for Hiawatha FN?</p> <p>Observation: It appears Indigenous Services, (Indian Affairs) land registration systems if you can call them systems are dreadfully incompetent and ineffective by design. It is like ISN is getting FNs to down load and clean up their mess.</p>	<p>Disputes: We absolutely agree and believe mediation is a preferred first approach because it attempts to resolve the dispute with the parties agreeing to the way forward rather than having a decision imposed. The Land Code does stipulate, as part of the dispute resolution process in Section 12.04, that the parties accept/agree to the mediator which means that Council will need to engage those involved to first agree on who is proposed to mediate and then provide their concurrence in writing.</p> <p>Annual Meeting: No. The community meeting would identify the numbers and the type of activities involved but would leave personal details out of the reporting.</p> <p>Environmental Regulations: The Lawyer was offering an example of a community where there were significant environmental issues which needed to be addressed and it took some time to resolve them. He also mentioned that this community was able to find funding from government to address these costs and offered it as an example of where additional funding can be sourced if Hiawatha needed. We know that one of the first steps HFN will need to take when the Land Code is ratified, is the development of an environmental stewardship regime. We will look to engage a firm to take on this work and will also be engaging with and informing the community all the way through. One important piece we will need to identify up front is potential costs for this work and in doing so, create a budget for it and identify the funding source/budget line. Some of the costs will be covered from the increased funds provided through the Land Code and the additional transition funding provided in year 1 and year 2, as well as the return of monies held by Canada (see the Individual Agreement with ISC, Annex 'A'). Another source of funds could be the return on investments from the newly formed Trust. Fortunately Hiawatha has had some environmental assessment work completed over the years which will help with the creation of the new laws and provide us with a head start in this area.</p> <p>Observation: Just to clarify about the First Nations Land Registry System (FNLRS) versus the Indian Land Registry System (ILRS). The ILRS isn't as bad as you might think and has provided the ability to keep records, track data, etc. As with all systems, there will be issues on occasion but for the most part, it has managed the land registration process reasonably well. The FNLRS however, is regulations-based. The regulations were drafted by legal experts (of course) in consultation with financial institutions and is unlike internal ISC policy which applies to all First Nations and is amended without First Nation input or consent. The FNLRS is paperless, electronic, instant recognition and priority-based as well as recognized and supported by financial institutions and title insurance providers. The ILRS is not.</p>

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<p>18. I am writing to request further information in regards to Question #8, as noted in Land Code Q&A.</p> <p>Is it correct to say the Current Committee is comprised of three HFN Citizens?</p> <p>It states there have been numerous Community meetings held. I am aware of three community meetings, Nov 12, 2019; Feb 9, 2020 and March 17, 2021 - NALMA and three Community Information Sessions via Zoom - March 10, 2021; March 22, 2021 and April 17, 2021. Can you advise what other community meetings there have been?</p> <p>The Final Draft of the HFN Land Code was completed March 24, 2021, the Individual Agreement is dated Jan 7, 2021 and the HFN Community Ratification Process is dated Jan 19, 2021, however none of these documents were posted on the HFN Website until April 1st, 2021. How can fair, informed consultation on the full context of these documents with HFN Citizens, eligible to vote have been done when these documents weren't made available until April 1st of this year and the Ratification Date is May 15?</p> <p>Family meetings were supposed to be part of the consultation process. Have any Family Meetings occurred, if yes how many families? No one in my family has been contacted for a meeting?</p> <p>I would sincerely appreciate having these questions answered and posted on line. Miigwech</p>	<p>1. No. The Committee was initially put together with a membership of 8 -- 7 HFN Citizens and one Alderville Citizen (staff member). Over the course of time, 2 individuals have stepped aside from the Committee and we are now have 6 members with 5 of those being HFN Citizens.</p> <p>2. We started the Land Code in July of 2018 with the Land Code web page created July 11th. Since that time we have had 9 community information sessions, the first one on July 11, 2018 with the last three sessions held this year, lead by the HFN Lawyer. The last one was on April 17th. We had hoped to have face-to-face meetings but with the COVID crisis in place since March of 2020 that hasn't been possible. Seeing as you have prepared a list, the dates are: July 11/18, July 12/18, Nov 12/19, Feb 10/20, July 23/20, March 10/21, March 18/21, March 22/21 and April 17/21.</p> <p>3. As you can see from the response to your second question, we have attempted to ensure the community has had a number of opportunities to engage on the Land Code. Aside from the 9 community meetings noted we have sent out a total of 11 email 'blasts' and made numerous postings on social media and in the Newsletter. The Land Code website has had a number of iterations of the draft Land Code posted to it over this time with Hiawatha Citizens able to view the document, pose questions or provide comment. The version posted on April 1st was the 'final' version. It has been revised based on feedback and to ensure we were compliant with the prescribed ratification process. It has been almost two years since we commenced the discussion on the Land Code. We have attempted to offer a variety of ways in which the Citizens of Hiawatha could reach out, participate and raise questions or concerns. The time between the posting of the final version on April 1st and the ratification date of May 15th, has offered added opportunity for people, such as yourself, to take another look and ask your questions.</p> <p>4. No, not correct. Family meetings were not "supposed to be part of the consultation process". The idea of holding family meetings was suggested by an individual who attended a community session (actually the only person who attended that particular session) as a way in which we could perhaps reach more people. The idea was accepted and we looked at ways in which we could organize family gatherings. We approached the former community champion who helped develop the Comprehensive Community Plan and asked if they would reach out to the family leads who were part of the CCP process. This person agreed to approach the family leads, ask permission to share their email addresses and if provided, for us to contact them to assist in convening family meetings on the Land Code. The email addresses were provided and letters were sent to each of the family leads asking for their assistance. We received a reply from three families. Two individuals were unable to assist due to work commitments or other pressures but suggested potential family members who might be able to step in. Unfortunately, when contacted, the alternates were also unable to help. At present we have convened one family meeting on the Land Code. We are waiting to hear if another family, who has recently</p>

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	<p>come forward, is interested in holding one as well. As to the last question you posed under this item, i.e. "No one in my family has been contacted for a meeting?", as this posting is anonymous it's not possible to respond as we don't know your family. Please know however that your family lead from the CCP process was approached.</p>
<p>19. As per question #7 Does HFN have the capacity to take on the Land Code" the answer provided stated current Land Management Revenue of \$55,000 per annum. In the zoom meeting presentation dated April 17th it was clarified that the LMR to Administer Lands as per Section 53/60 was \$99,000.00 per annum not \$55,000.00. Which one is it for clarification? Further it states HFN will receive \$280,000.00 per annum for the 1st year but it doesn't state the increased costs that will come with having a Land Code. Is it correct in saying in addition to "Administration Costs" additional costs that flow down to HFN may include but aren't limited to: Environmental Assessments; Enforcement; Legal - Advise and Court Costs; Increase in Indemnity Insurance for C & C and HFN Staff; Inspections; Surveys and Land Appraisals? These are additional costs to the Lands Management program, is an additional \$180,000.00 per annum enough to cover these additional costs?</p>	<p>So that we are talking specific figures, the current amount of funding Hiawatha receives from Indigenous Services Canada (ISC) for our Lands area is \$94,644. A total of \$40,000 is transferred out of the Lands budget and allocated toward Membership which leaves the operational budget for lands at \$54,644. We have been using \$55,000 as a round figure when discussing the current budget available to administer lands under our 53/60 Delegated Authority. The Lands department also takes in approximately \$40,000 each year in service charges from leases out of which \$25,000 is transferred to Public Works to cover the costs of waste pick-up. As to what HFN will receive in our first year under the Land Code, we will receive almost \$350,000 in Year 1 and in Year 2. This total is comprised of the basic, formula-driven annual amount of close to \$280,000 plus an additional \$75,000 in transition funding. We will also receive in Year 1, an amount approximating \$260,000 which are monies held in trust but now required to be transferred to HFN from Canada. Our funding support then, to assist with the transition and management of the new Land Code in Year 1, will be in the neighborhood of slightly in excess of \$600,000.</p> <p>You seem to be concerned that Hiawatha will not have the funds to manage our Lands area as a result of the Land Code and the various costs associated with it. We have always, as I think you can appreciate is true for all First Nations, had to manage the many aspects of our business and community needs being ever mindful of the funding which flows from government. Hiawatha First Nation has done a good job in managing our budgets, providing programming for the community and ensuring services are in place. There may be occasion when there are unforeseen costs associated with the Land Code and if the annual allocation isn't sufficient to address these instances we will look to find other ways to respond, either through the return-on-investments from the newly created BNW Trust or through other potential funding sources. You may not be aware but we have been successful in finding alternative sources to support a number of activities or priorities. Hiawatha has received over \$5million to help with the future re-build of Paudash Street, has secured funds to offset the costs associated with the water project currently underway, has secured funds to cover the costs for the creation of the Comprehensive Community Plan and before that, the Governance Plan as well as finding funding to assist in the design of the Cultural Community Centre. HFN staff are to be complimented for their ability to actively pursue this funding and find ways to address issues which may arise.</p>

QUESTIONS/COMMENTS	RESPONSES
<p>20. I am responding to Question #3 in the email received April 23,2021 regarding CP holders rights and title. As stated currently CP holders have exclusive possession of their land. Part 9.01 of HFN Land Code states interests and other rights in HFN Land held by Citizens pursuant to the Indian Actor pursuant to the customs of the FN on the coming into force of this Land Code are subject to the provisions of this Land Code and land laws enacted under it governing the transfer and lease of interests or rights in FN Land and sharing in natural resource revenues. Therefore if HFN Land Code is ratified does this then mean Citizen's with CP's who currently have sole 'voice' in all land transactions for their CP land will no longer have sole 'voice' because they will now have to adhere to all Land Laws enacted by Council as per Part 9 pg 19-21.</p>	<p>As you state at the start of your question, the Certificate of Possession grants exclusive possession and the right to occupy the lands under it. Just to be clear and to say it once again for everyone reading this response, all current interests (CPs or Leases) registered in the Indian Land Registry System will be 'grandfathered' under the new Land Code.</p> <p>As to your specific question, you used the term "sole voice" which is a curious turn of phrase given the circumstances. CP holders do not have "sole voice" now in all land transactions for their CP. You are currently required to adhere to all land laws, regulations and policies imposed under the Indian Act as well as adhere to the By-laws, policies and processes created over the years by the various Chiefs & Councils. Under the Land Code, as a CP or Lease holder, you will be required to adhere to all the land laws which are created under it but with one very significant difference. Hiawatha is currently required to deal with the Minister and adhere to all the land laws imposed upon us by the Crown through the Indian Act, with the ultimate authority vested in the Minister. You have little to no voice! Under the Land Code, Hiawatha Citizens will determine which land laws are required and all land laws must be presented to the community prior to enactment. You and all other Citizens of Hiawatha, will now have a voice!</p>
<p>21. Question #4 states "Under the Land Code Part 5.06 page 9 it states "At least 21 days before the date of the first Open Session of Council at which the draft land law may be enacted, Council shall cause notice to be given to the eligible voters as per (a) to (c).</p> <ul style="list-style-type: none"> • What does an Open Session of Council mean because it's not in the definitions? • Do HFN Citizens have a voice and/or vote at the Open Session? If yes where is that state in the Draft HFN Land Code? • Can you advise me where in the Draft HFN Land Code all land laws are required to be submitted to the community for input and/or approval?" I ask because Section 5.05 (c) states "the date, time, location and other particulars of any 'community consultation or community approval which may be required in respect to the draft land law?" 	<ul style="list-style-type: none"> • As you are aware, all meetings of Council are open to Citizens of Hiawatha to attend. The notices put in the HFN Newsletter, which advise on the dates for future Council meetings, makes this fact clear. • HFN Citizens most certainly have a voice at the Council table during Council meetings. There wouldn't be a vote to approve any proposed land law as Council is required to follow the process laid out in the Land Code when a proposal is put forward. As to a vote at the Council table, only Council members would be voting on motions put forward regarding land issues or any other business item, as that is their responsibility. • You should have read just a little further down in Part 5 of the Land Code as Sections 5.07, 5.08, 5.09 and others lay out the process and details on how these are to be presented to the community.

QUESTIONS/COMMENTS	RESPONSES
<p>22. I'm responding to Question #4 for more clarification. The response noted to 'Council control over decisions without community involvement or consultation". Part 3, Pg 6 of Draft HFN Land Code outlines the Executive Authority which states "except as otherwise expressly provided in this Land Code and Land Laws or other instruments enacted under it shall be vested in and carried out by Council or by any person or body to whom a Power is delegated by Council or by a Land Law" and Part 4 page 6 to 8 - Legislative Authority it states 4.01 "Council has the power to make land laws in accordance with this Land Code" and 4.02 - "Particular Powers it states " Without restricting the generality of section 4.01 Council may enact Land Laws respecting (a) to (f).</p> <p>Q#1 - Can you explain how Executive & Legislative Authority giving Council Power and Authority to manage all HFN Land isn't 'Control'?</p> <p>Q#2 - In addition why can Council delegate this Power to any person or body and not the Citizen's of HFN?</p>	<p>Q#1 - There's no short way to respond to this question and address your inference that Council is looking to exert absolute power & control so please bear with us as we try to allay your concerns. Let's start with the "Preamble" to the Land Code. It states that "The authority of the Hiawatha First Nation to govern its Land and resources flow from the Creator to the people of the Hiawatha First Nation and from the people to Council according to our culture, tradition, customs and laws". At the outset, the Land Code is about the people of Hiawatha having the control. The next Section to note is, as you have highlighted, Section 3 regarding the authority to manage land. This section of the Land Code expressly points out that the authority has been transferred, is now vested in the HFN Council and it is Councils responsibility to ensure the Land Code laws and processes are implemented. The power and authority is no longer vested in the Minister but is now vested in HFN Council as elected by the Citizens of Hiawatha to assume this responsibility. Lastly, as you read through Section 4.02 and the various elements listed from (a) to (f) you will note that Council does not have anything close to absolute power or control. Land use laws and environmental laws all have to come to the community for ratification with the processes for making these laws and managing the lands spelled out in Sections 5 and 7. The main theme which runs through all of these processes is not the ability for Council to "control" but the need for Council to engage and consult. The current provisions under the Indian Act gives Council the power to enact laws and regulations without community involvement. The Land Code requires it!</p> <p>Q#2 - We refer you to Section 7.04 'Advisory Committees and Working Groups' for the answer to your question. Once again, HFN Council has the obligation to ensure the land laws and processes laid out in the Land Code are implemented. This means Council will need to come to the Citizens of Hiawatha to be involved in groups such as the Lands Advisory Committee, to assist in engaging the community, to perhaps act as mediators or in arbitration and to provide advice and feedback on the creation of laws, policies, etc. Council will also need to engage Elders and Knowledge Keepers in identifying izhitwaawin areas so that these can be protected and respected.</p>
<p>23. If the HFN Land Code is ratified it was noted in question #5 that CP Holders with Leases will have to incur the costs of Appraisals. Will CP holders and those with Leases also incur other costs related to Leased Properties such as surveys; legal costs, etc..?</p>	<p>The short answer is yes. If you want to undertake an appraisal of your leasehold or have a survey done, these costs will no longer be covered by ISC/HFN. As the holder of the lease, you're collecting rents and receiving financial benefit through it. You can look at having these costs covered over time through the lease and the payments received from the person leasing your holding. We can't say for certain but don't believe you're asking the other Citizens of Hiawatha to help you cover these costs by having Hiawatha pay for them; especially since the other Citizens of Hiawatha aren't sharing in the income you receive from your leasehold?</p>

QUESTIONS/COMMENTS	RESPONSES
<p>24. The HFN Land Code is dated March 24, 2021, the Individual Agreement is dated is dated January 7, 2021 and the HFN Community Ratification Process is dated January 19, 2021. In Council minutes dated December 17, 2020, Motion # 20.1217.2 states “ a motion was made to approve the submission of the Draft Land Code, Eligible Voters list and Community Ratification Process document to Jennifer Copage to initiate the ratification process of HFN Draft Land Code, as recommended by Lands Department. Was a second motion made by Council to approve these documents for submission because the Motion noted above pre-dates all of these documents?</p>	<p>Yes. March 4th and then again on March 29th to address some minor corrections which were made to the Land Code. Whenever a change/correction to the draft Land Code is made, the third-party independent Verifier needs to review and reverify to ensure the changes comply with the Framework Agreement.</p>