



## AGENDA ITEM

### Just Freehold Energy – Tax Relief Request

April 9, 2020

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#### **BACKGROUND**

On May 3, 2019, Trident Exploration Corporation was placed into Receivership. This receivership affected several thousand wells and dozens of creditors including many rural municipalities. Lacombe County was one of those municipalities. Unlike other municipalities however, the County's exposure was limited to a small number of wells with only the 2019 property taxes outstanding.

As a shallow gas operator, the low value of natural gas has limited the value of the company's current inventory of wells. The company also had substantial reclamation liabilities at the time it was placed in receivership. In fact, the organization to place the company into receivership was the Orphan Well Association. Despite these challenges, the receiver has been able to sell some of the wells to other companies.

Lacombe County has expected that most of the wells in the County would be retained by the Association and that the County would not recoup any taxes from these sites. The County has established allowances in the eventually that these taxes would have to be cancelled.

On April 1<sup>st</sup>, 2020, the County was advised that three well sites (located on two land locations) had been conditionally sold to Just Freehold Energy. As part of its due diligence, the Company is seeking the cancellation of the outstanding 2019 and a portion of the 2020 taxes

#### **ANALYSIS**

As part of the order issued by the Court, the outstanding taxes as well as the portion for the 2020 taxes related to the wells prior to the purchase date are effectively cancelled by the Sales Order.

Despite this, and as a matter of practice, Just Freehold Energy has been seeking formal approval from municipalities to confirm that these taxes are not the responsibility of Just Freehold. Confirmation by Council would eliminate the need for the Receiver and Just Freehold to go Court to confirm the final taxes to be written off.



Administration has established an allowance (reserve) for the 2019 taxes and penalties associated with these wells. The 2020 would be a reduction in 2020 revenue.

The County was fortunate in that all prior years' property taxes had been paid and therefore only the 2019 property taxes were affected by the receivership. The following is a summary of the amounts in questions:

2019 levy	\$1,653.14
2019 penalty	274.42
2020 (estimate)	<u>688.81</u>
	\$2,616.37

Just Freehold has been operating in the County for some time and has been a responsible property taxpayer to date.

## ALTERNATIVES

1. Approve the request as presented.
2. Deny the request
3. Direct Administration on another course of action.

## BUDGET IMPLICATIONS

The only implications for 2020 is the portion of taxes that apply to the time period prior to the closing of the sale. The County estimates that to be \$688.81. However, it should be noted that if the assets remain with the receiver the County would have to eventually cancel \$1927.56 related to 2020 taxes.

The County estimated an allowance for the 2019 levy and penalty and its cancellation will have no impact on 2020 finances.

## LEGISLATIVE RESPONSIBILITIES

The Municipal Government Act (MGA) provides Council with the authority to cancel property taxes. Section 347(1) of the MGA states that "if a Council considers it equitable to do so, it may, generally or with respect to a particular taxable property or business or a class of taxable property or business, do one or more of the following, with or without conditions 1) cancel or reduce tax arrears, 2) cancel or refund all or any part of a tax, or 3) defer the collection of a tax".

Section 248(1)(a) of the MGA states that a municipality may only make an expenditure that is included in an operating budget, interim operating budget or capital budget unless otherwise authorized by Council.



The Federal Bankruptcy and Insolvency Act outlines the priority of claims as it relates to bankruptcies and receiverships. Municipal linear taxes are considered an unsecured claim under the Act and this has been confirmed by case law over the past 18 months.

**PUBLIC PARTICIPATION**

The County’s public engagement will be limited to informing the public of Council’s decision on this matter as well as communicating Council’s decision to Just Freehold Energy.

**STRATEGIC PLAN**

- Core Strategy– “Finance”,
  - Strategic Priority Manage the financial assets of the County in order to obtain maximum value.

**RECOMMENDATION**

That Council approve the request of Freehold Energy Company to cancel the 2019 property taxes and penalties for well sites located at 13-32-39-26W4 and 06-12-40-27W4 in the amount \$1,927.56 and further

That Council approve the request for Freehold Energy Company to cancel the 2020 prorated property taxes for the well sites located at 13-32-39-26W4 and 06-12-40-27W4 subject to the Freehold Energy providing confirmation of the purchase of the assets and date of closing.

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