

To: Mayor and Members of Council

March 21, 2011

Re: McKenzie Pointe Tax Incentives – Mauri Gwyn

Background

Administration presented Council for consideration a report in regards to the tax incentives for the developer, Mauri Gwyn, on the McKenzie Pointe subdivision.

Council tabled the report to the March 21, 2011 Council meeting to allow time for administration to verify what other developers received as an incentive in previous developments.

Discussion

There are two subdivisions that were approved in 2007, McKenzie Pointe (approved January 12, 2007) and Emerald Creek/Fairway (approved February 16, 2007). The Development Agreements for both subdivisions had a 'Tax Incentive' clause. The tax incentive clause mirrors each other in both agreements. The McKenzie Pointe subdivision was assessed as residential and taxed accordingly in 2007, however the Emerald Creek/Fairway subdivision was not assessed as residential and taxed in 2007. The Emerald Creek/Fairway subdivision was assessed and taxed in 2008 and did receive a tax abatement/rebate. The developer of Emerald Creek/Fairway did not receive a tax abatement/rebate in 2009.

The tax incentive policy states that

- a) municipal taxes will be abated against any of the Lots for the balance of the calendar year in which the Plan is registered; and
- b) municipal taxes will be abated against any of the Lots for the balance of the following calendar year

Please find attached the Administration report from the February 22, 2011.

Budget Implications

This will decrease the amount of tax receivable we have. This will be reflected in the 2011 budget.

Conclusion

The Town has provided tax incentives to other developers within the Town. Essentially the developer of Emerald Creek/Fairway did receive a tax incentive the year the plan was registered, because the lots were not assessed and taxed, as well in 2008 when the developer paid the taxes and applied for a rebate. Therefore providing an abatement/rebate to Mauri Gwyn Developments for 2007 and 2008 was clearly the intent of the Town.

Recommendation

Administration recommends that the following motion be passed:

“THAT Mauri Gwyn Developments receive an abatement of municipal taxes on the following properties as follows:

| | Mun. Txs. | Penalty |
|--------------------|-----------|---------|
| 2 McKenzie Pointe | 638.00 | 329.98 |
| 4 McKenzie Pointe | 624.32 | 322.91 |
| 8 McKenzie Pointe | 614.20 | 317.68 |
| 10 McKenzie Pointe | 614.20 | 317.67 |
| 18 McKenzie Pointe | 638.00 | 329.98 |
| 30 McKenzie Pointe | 618.37 | 320.24” |

“THAT Mauri Gwyn Developments receive a rebate of municipal taxes paid that will remain as a credit on account to be put towards taxes owing on properties owned by the Developer:

| | Mun. Txs. | Penalty |
|--------------------|-----------|---------|
| 2 McKenzie Pointe | 501.73 | 55.12 |
| 4 McKenzie Pointe | 493.39 | 54.18 |
| 6 McKenzie Pointe | 492.21 | 54.07 |
| 8 McKenzie Pointe | 486.85 | 53.47 |
| 10 McKenzie Pointe | 486.85 | 53.47 |
| 12 McKenzie Pointe | 1,101.05 | 195.81 |
| 16 McKenzie Pointe | 490.42 | 53.88 |
| 18 McKenzie Pointe | 502.32 | 55.18 |
| 28 McKenzie Pointe | 489.23 | 53.74 |
| 29 McKenzie Pointe | 492.20 | 46.00 |
| 30 McKenzie Pointe | 489.23 | 53.74 |



Town Manager

| | | |
|--------------------|--------|--------|
| 32 McKenzie Pointe | 489.23 | 53.74 |
| 36 McKenzie Pointe | 493.40 | 54.18 |
| 38 McKenzie Pointe | 533.85 | 58.65 |
| 40 McKenzie Pointe | 493.40 | 54.18 |
| 41 McKenzie Pointe | 485.06 | 53.30 |
| 42 McKenzie Pointe | 494.58 | 46.21 |
| 43 McKenzie Pointe | 485.07 | 53.30" |

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Shauna Bzdel".

Shauna Bzdel,
Town Manager

To: Mayor and Members of Council

February 22, 2011

Re: McKenzie Pointe Tax Incentives

Background

In 2007 a Development Agreement (D.A.) was signed with Mauri Gwen Developments for the McKenzie Pointe subdivision. Section 5.06, Tax Incentives, explains the tax incentives the Town would provide for that subdivision. The section reads as follows:

5.06 Tax Incentives

The Town agrees that, after the Plan of Subdivision ("the Plan") is registered:

- a) municipal taxes will be abated against any of the Lots for the balance of the calendar year in which the Plan is registered; and*
- b) municipal taxes will be abated against any of the Lots for the balance of the following calendar year; and*
- c) following the date of transfer of title of a Lot to an Owner, municipal taxes will be abated against the building constructed on that Lot for a period of one year from the date of transfer of the Lot; provided that municipal taxes will be assessed against the land portion of the Lot from the date of the transfer of title.*

Notwithstanding the foregoing:

- a) the exemption granted hereinbefore shall expire for each Lot three years from registration of the Plan;*
- b) the exemption granted hereinbefore shall expire if the Plan is not registered within one year from the date of this Agreement;*
- c) the present assessment and municipal taxes assessed against the Land shall continue until the Plan is registered.*
- d) it will be necessary for the Developer or land owner to apply for a rebate for the municipal tax portion by December 31st of each year.*

Nothing in this provision waives or exempts the Lands from assessments for school assessments and taxes.

The definitions of 'abatement' and 'rebate', as per Merriam-webster dictionary are as follows:

Abatement – an amount abated; especially: a deduction from the full amount of a tax.

Rebate – a return of a part of a payment.

The Plan of subdivision was registered in 2007. Therefore, as per the D.A. the Developer should have received an abatement of municipal taxes on the 'land' taxes for any lots that the Developer owned in 2007 and 2008. The taxes were not abated, and there was a misunderstanding between Administration and the Developer and there was not a rebate provided either.

I have met with the Developer to discuss the tax incentives, and it was the understanding of the Developer that he was to receive abatements on the lots for three years, as opposed to two year. I am unaware of the intent of the Council at the time the D.A. was written, however my interpretation is that the Developer was to receive an abatement on the lots that were owned by the developer for two years (2007 & 2008) and if/when a lot was transferred, the new owner would receive an abatement on the taxes of the building if a building was constructed within a year of the date of transfer. I have discussed this with Mark Mulatz and he agrees with my interpretation.

Discussion

I have compiled the information on the McKenzie Pointe subdivision and have concluded that the Developer should receive the following abatements/rebates:

Rebate:

| | |
|-------------------|-----------------|
| Municipal Taxes – | 9,500.07 |
| Penalty - | <u>1,102.22</u> |
| Total | 10,602.29 |

Abatement:

| | |
|------------------|-----------------|
| Municipal Taxes: | 3,747.09 |
| Penalty: | <u>1,938.46</u> |
| Total: | 5,685.55 |

*I have attached a spreadsheet showing the breakdown of the rebate and abatement.

The abatement will simply be a cancellation of taxes & penalty towards the specific lot. The Rebate will be a credit that we will apply to other properties owned by the Developer that have taxes owing.

Budget Implications

This will decrease the amount of tax receivable we have. This will be reflected in the 2011 budget.

Conclusion

The Town has provided tax incentives to other developers within the Town. Those developers received a rebate on lots owned by the developer for the year the plan was registered and the following year. Therefore providing an abatement/rebate to Mauri Gwyn Developments for 2007 and 2008 was clearly the intent of the Town.

Recommendation

Administration recommends that the following motion be passed:

“THAT Mauri Gwyn Developments receive an abatement of municipal taxes on the following properties as follows:

| | Mun. Txs. | Penalty |
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“THAT Mauri Gwyn Developments receive a rebate of municipal taxes paid that will remain as a credit on account to be put towards taxes owing on properties owned by the Developer:

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Town Manager

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| 41 McKenzie Pointe | 485.06 | 53.30 |
| 42 McKenzie Pointe | 494.58 | 46.21 |
| 43 McKenzie Pointe | 485.07 | 53.30" |

Respectfully submitted,

Shauna Bzdel,
Town Manager

| Property Address | 2007 Rebate | | 2007 Abatement | | 2008 Rebate | | 2008 Abatement | |
|--------------------|-----------------|---------------|----------------|-------------|---------------|---------------|-----------------|-----------------|
| | Mun. Taxes | Penalty | Mun. Taxes | Penalty | Mun. Taxes | Penalty | Mun. Taxes | Penalty |
| 2 McKenzie Pointe | 501.73 | 55.12 | | | | | 638.00 | 329.98 |
| 4 McKenzie Pointe | 493.39 | 54.18 | | | | | 624.32 | 322.91 |
| 6 McKenzie Pointe | 492.21 | 54.07 | | | | | | |
| 8 McKenzie Pointe | 486.85 | 53.47 | | | | | 614.20 | 317.68 |
| 10 McKenzie Pointe | 486.85 | 53.47 | | | | | 614.20 | 317.67 |
| 12 McKenzie Pointe | 486.85 | 53.47 | | | 614.20 | 142.34 | | |
| 16 McKenzie Pointe | 490.42 | 53.88 | | | | | | |
| 18 McKenzie Pointe | 502.32 | 55.18 | | | | | 638.00 | 329.98 |
| 28 McKenzie Pointe | 489.23 | 53.74 | | | | | | |
| 29 McKenzie Pointe | 492.20 | 46.00 | | | | | | |
| 30 McKenzie Pointe | 489.23 | 53.74 | | | | | 618.37 | 320.24 |
| 32 McKenzie Pointe | 489.23 | 53.74 | | | | | | |
| 36 McKenzie Pointe | 493.40 | 54.18 | | | | | | |
| 38 McKenzie Pointe | 533.85 | 58.65 | | | | | | |
| 40 McKenzie Pointe | 493.40 | 54.18 | | | | | | |
| 41 McKenzie Pointe | 485.06 | 53.30 | | | | | | |
| 42 McKenzie Pointe | 494.58 | 46.21 | | | | | | |
| 43 McKenzie Pointe | 485.07 | 53.30 | | | | | | |
| Totals | 8,885.87 | 959.88 | 0.00 | 0.00 | 614.20 | 142.34 | 3,747.09 | 1,938.46 |