

Urban Neighbours Land Entitlement and Urban Reserves

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I have been asked to speak to you today about urban reserves based on the Saskatoon experience. I should say at the outset that I will be addressing the issue of urban reserves only and not the wider aboriginal issues within urban municipalities. Urban reserves create a specific relationship between one urban municipality and one First Nation. It is that situation which I will be discussing today.

The first thing that I would like to say is that urban reserves are not new. They have existed for some considerable time although they are not well known because they tend to be located in places like Mao, Yukon and Prince Albert, Saskatchewan, and they do not exist, as yet anyway, in cities like Toronto.

Urban reserves are also not reported very much in the media. This is, I suspect, at least partly due to the fact that they are a difficult story to report. In fact, a sign of an established urban reserve is the very absence of newsworthy events. It is just ordinary people going about their business.

In Saskatchewan, there are three urban reserves at present. One in Prince Albert, which is the oldest; one in Saskatoon and one in Meadow Lake. The Saskatoon reserve was created by the Muskeg Lake Cree Nation in 1988.

The first question most people have is, what is an urban reserve? An urban reserve is any land within the boundaries of an urban municipality which has been dedicated as reserve land pursuant to the existing *Indian Act*. Legally, it has exactly the same status as the reserves with which people are more familiar in the countryside. Physically it is simply a piece of urban property. It can be a vacant lot, it can be an office building, a school, a hotel, a shopping centre, a residential subdivision or, as in Saskatoon, a large commercial, industrial development.

If you drive through Saskatoon, you will not be able to distinguish the Muskeg Lake urban reserve from the surrounding land simply by looking at it. What you will see is a large office building and another office building under construction and various construction equipment and machinery. Recently, Peace Hills Trust opened an office there, so the best way to find the property is by looking for their sign.

I mention this because I am frequently asked by people who live in a city that does not as yet have an urban reserve what an urban reserve will look like and whether they will be allowed to go on the land once it is reserve. And the answer is, it is just like any other urban property.

What defines an urban reserve is the dedication of the land itself to reserve status. The effect of that dedication from a city's point of view is that the First Nation which owns that reserve land becomes the local government on that land. That First Nation will issue the tax notices to businesses on that land; it will pass the zoning bylaw for that land; it will have the responsibility for building and maintaining the infrastructure on that land; in other words, it has independent jurisdiction.

From a city's viewpoint, the closest analogy is the relationship between an urban municipality and a neighbouring rural municipality. Each is its own government within its own boundaries. Within the context of the urban environment, the city and the First Nation are equal partners.

As I said, urban reserves are not new but they have been, in the past, fairly uncommon. The reason is that it was very difficult for a First Nation to be able to create an urban reserve. A good example is the efforts which the Muskeg Lake Cree Nation had to make in order to create their urban reserve in Saskatoon. The Muskeg Lake Cree Nation had a specific land claim. At that time, the only way that they could acquire urban land was to find surplus Crown land within a city.

Muskeg Lake Cree Nation found a 35-acre parcel in the Sutherland area of the City of Saskatoon. They put in their claim in 1984. It took four years before they were able to actually have the land dedicated as reserve.

One of the steps that was required then, and is still required now, is that the First Nation had to negotiate an agreement with the city. That agreement was to cover matters such as tax loss compensation, providing services to the property, and having compatible bylaws and enforcement mechanisms in place.

The perceived wisdom of that day was that all cities would react negatively to proposals for urban reserves. The Muskeg Lake Cree Nation honoured Saskatoon by ignoring those assumptions. They did approach the City. Both the Mayor and the City Council reacted

positively to the proposal. An agreement was negotiated and signed, and that relationship has continued and developed to this day.

I mention this as an example of how blanket assumptions are sometimes wrong.

There are people on urban councils in Saskatchewan who are opposed to urban reserves and there are people on urban councils who are proponents of urban reserves. And there are many people at this time in the Saskatchewan community who are not opposed to urban reserves but who are hesitant because this is something new to them.

It is important to keep in mind that a process went on in Saskatchewan for several years, the Treaty Land Entitlement Process. It involved First Nations, the provincial government and the federal government. It peripherally involved SARM, the Association of Rural Municipalities. It did not involve, until the very end, the urban municipalities.

Many cities and towns have only within the last year really begun to receive information about this issue. As a result, there is a natural hesitancy. I should add, incidentally, that much of the information which is now being put out, is a joint effort of the FSIN and SUMA, with help from the Office of the Treaty Commissioner.

Back to Saskatoon. As I mentioned, the urban reserve lands were actually created in 1988. It took at least another year, I think perhaps more than that, before the Muskeg Lake Cree Nation could in fact do anything on that land because of the further difficulties which all First Nations encounter in trying to pursue economic development projects. That is another whole story which you will hear about this afternoon from Mr. Jamieson of the Bank of Montreal.

In the intervening years, the City and Muskeg Lake, as the land has been developed, have signed several further agreements including most recently a 1993 agreement regarding tax loss compensation and sale of municipal services. This agreement is very similar to the ones which will be signed by First Nations and urban municipalities in the future under Treaty Land Entitlement.

What I want to make clear is that urban reserves before Treaty Land Entitlement and after Treaty Land Entitlement are essentially the same. The same agreements need to be signed between the city and the First Nation about the same issues and the urban reserve is actually created in the same way. In other words, the process is not new. What is new is that as a result of Treaty Land Entitlement, urban reserves are much more possible and much more likely, and therefore will be much more common in Saskatchewan.

I am assuming that most people here have some knowledge of the Treaty Land Entitlement process, and I do not intend to go into it in any great detail. For those who are not aware

of what I am talking about, I should just say briefly that what happened in Saskatchewan, was a process whereby 26 Treaty Land Entitlement bands settled their outstanding land claims with the federal government in a particular way which culminated in the signing of what is called the Treaty Land Entitlement Framework Agreement in 1992.

There were two particular features of the Treaty Land Entitlement settlement that have a direct effect on urban municipalities and urban reserves.

The first was the question of cash compensation. Each First Nation which is involved in Treaty Land Entitlement signed a separate agreement which will result in their receiving a particular sum of money in order for them to buy land on the open market within Saskatchewan. Prior to the Treaty Land Entitlement Agreement, First Nations even when they had a specific land claim, had to find surplus Crown land within an urban municipality as Muskeg Lake did. This was difficult.

Now for the first time, First Nations have the money to buy the land that suits their particular needs and objectives. Some will be looking for commercial property, some for office buildings, some for residential property, some for tourism sites, some will buy property close to home and others will buy property in the major centres, particularly Saskatoon and Regina. It is for First Nations an opportunity to be a part of the urban community to an extent that was never possible before. That is what is new and that is what affects the urban municipalities in Saskatchewan today. It is the **extent** of what is happening that is different, not the process by which it happens.

The other factor resulting from Treaty Land Entitlement which is less visible to a city is that the actual process that the First Nation and the federal government go through to create the urban reserve has been both fast tracked and also made more certain. A First Nation should no longer have to go through what Muskeg Lake did. What was theoretically possible for them before, is now a realistic possibility.

The technical process from a city's perspective of creating an urban reserve within their community is quite straight forward. Once a First Nation has selected property within the city to be dedicated as reserve lands, they notify the city of their intention to do so. The next step is that an agreement is negotiated between the city and the First Nation on the issues that I mentioned before, such as tax loss compensation and sale of services. Upon the signing of that agreement, the lands will be dedicated as reserve lands by the federal government and the First Nation is the governing body of those lands.

It sounds quite simple and mundane - it is not. It is a big change for most urban municipalities and for First Nations. For First Nations, it is the first opportunity to be a real player within the urban environment; and for cities it means that they need to adjust to having another jurisdiction within their midst. Again, it is not new for a city to have other

jurisdictions with which they need to work cooperatively. Cities are already used to dealing with the federal level of government, the provincial level of government and other municipal governments, both urban and rural. What is new for cities is to deal with a First Nations level of government.

I should mention here that First Nations assert jurisdiction at all three levels of government. In seeking to govern their own affairs, they wish to exercise powers which are currently in the federal sphere and in the provincial sphere. These are still to be negotiated or otherwise clarified. First Nations are agreed to have powers in the municipal sphere. There is nothing to be negotiated there. And regardless of what other jurisdiction they have, they will be the local government as well.

What are some of the issues and concerns of the parties when they meet for the first time to establish an urban reserve?

The First Nations have made it quite clear to the urban municipalities that one thing that they really wish to see is a clear recognition of their status as the governing body on their own lands within the urban community. This is a first stage in negotiations and each First Nation and urban community addresses it in their own way.

As to other issues, from a city's perspective, (and please keep in mind that I am speaking as a member of a civic administration, not an elected official) one of the things that is a genuine worry is that urban local government will not be taken seriously by the First Nation, and that the First Nation will not give it the time and attention which it requires. This concern comes not from experience with First Nations but from experience with the federal government.

Cities know that First Nations by and large have dealt in the past with the federal government and not very much with urban municipalities. The federal government itself is not in the business of urban government and has no practical expertise or experience in that area.

The concern is that First Nations will not have been told of the difficulties and complexities of urban government and as a result will seriously underestimate what is involved in creating and operating an urban reserve. It is not that cities are concerned that First Nations cannot do it - First Nations currently deal with issues which are just as, or more, complex. What we are concerned about is a lack of familiarity with the unique complexities of urban government.

Urban government is different than federal government or provincial government but it is just as complex. One has a lot less status than the other, but please do not confuse lack of status with lack of complexity.

What is needed is for First Nations to be aware that cities have expertise in urban government and that cities have valuable information for First Nations. One small example is the question of undeveloped land. Saskatoon and Muskeg Lake spent somewhere between six months and one year just talking about how to develop raw land. Raw land in a city means land which has no streets, no sewers, no water lines, nothing. A city does not construct this infrastructure, the land developer does. The land owner/developer must ensure that the development fits the surrounding property in the size of the pipes and the depth of the pipes, the pattern of the roadways, the traffic flow, the width of the streets, the drainage system, etc.

Cities spend a lot of time talking to land developers about proposed projects before they buy land, for the simple reason that it is to the mutual benefit of both parties to ensure that their development plans fit together. If a developer purchases property which cannot be developed because there is no trunk sewer capacity, or because the roadways are not appropriate to the traffic that will be generated, then that developer has wasted large amounts of money. And the city has a problem because that land sits vacant.

The municipal services agreement required by the federal government does not even contemplate these kind of issues. It assumes that all of that has already been taken care of, that someone has built the infrastructure and done everything necessary. Well, that is not reality. The reality is that if the First Nation buys undeveloped land it is their responsibility and they need to have information before they buy. And urban municipalities would like the opportunity to provide that information to them.

I would like to mention, that as a result of Vice-Chief Bellegarde's initiative, a joint task force of SUMA and the FSIN has been preparing a document on just these issues for the Assembly of Entitlement Chiefs.

Another point which should be noted is that the signing of a municipal services agreement is not the end of a process, it is the beginning. An urban reserve is not a stand-alone entity. It is an experiment in parallel jurisdiction within a city. In order for First Nations and cities to achieve their objectives, they have to create a structure between themselves for making this parallel jurisdiction actually work, on an ongoing basis.

And this new structure must be built in advance of the creation of a framework for First Nations self-government. It needs to be created as soon as the urban reserve is created, by the parties involved, out of their own creativity and ingenuity. It can benefit from the resolution of the wider issues, but it cannot wait for that resolution.

Virtually everyone who has been involved in this issue will tell you that the key to building such a structure is for the urban municipality and the First Nation to sit down together.

Examples of working arrangements can best be obtained from other cities and First Nations who have urban reserves.

The process of how First Nations and cities work together will be different in different urban centres. But some things can be expected to be similar.

For example, as time goes along, the First Nation will have a relationship, not just with the urban municipality, but with many other people in the wider community. Muskeg Lake Cree Nation for instance, has a relationship with the Saskatoon business community. It will have a relationship with the Sutherland community immediately surrounding its lands. And it will have other relationships both within the First Nations community and outside the First Nations community.

You can see this reflected in the media coverage in Saskatoon. What Muskeg Lake Cree Nation does may be city news, it may be business news, it may be local news. It is not exclusively "aboriginal news".

Secondly, an urban reserve has an impact on a community beyond the boundaries of the urban reserve and perhaps beyond the original intentions of the parties. That is because it presents First Nations in a way that is new to the urban environment. As one small example, The City of Saskatoon City Council and the Muskeg Lake Cree Nation Council have joint meetings on occasion. The Mayor sits with the Chief and the Council members sit with the Council members and the administration sits with the administration. That is a different image for an urban setting.

The other thing that should exist as a relationship goes along, is freedom for the parties to disagree on any one issue. It is inevitable that urban municipalities and First Nations will disagree. Why would they not? Cities disagree with cities, cities disagree with the province, the province disagrees with the federal government, the federal government disagrees with some provinces and not with others, etc., etc. The problem with urban reserve creation is that, at the beginning, each issue seems critical to the very existence of the relationship between the First Nation and the urban municipality. But as time goes along, this should be less and less the case.

Included in your material today, is an excerpt from a newspaper supplement published to advertise the grand opening of the McKnight Centre last December on the Muskeg Lake lands. For those of you who were not present, it was quite an occasion. Chief Lafond was the host of course, and Grand Chief Ovide Mercredi was there as well as Mayor Dayday. There were ribbon cuttings and speeches and in the evening, 500 people celebrated together, First Nations and non-First Nations alike.

I have asked that the messages of Chief Lafond and Mayor Dayday be reproduced for you. I hope that you will take a moment to read those messages because they describe much better than I can, the relationship that exists today in our community, six years after the creation of an urban reserve.

“A Message from His Worship, Mayor Henry Dayday

I am very pleased that the McKnight Commercial Centre is officially opening.

The Muskeg Lake Band has worked for many years to create Saskatchewan’s first urban commercial reserve. We know that it has not been easy and we are proud to have had a part to play in their success.

The City of Saskatoon strongly believes that economic development opportunities for First Nations are critical to the maintenance of a vibrant, healthy city. We believe the McKnight Commercial Centre is a model for the future.

I wish Chief Harry Lafond and the Muskeg Lake Band every success, and look forward to a long and fruitful partnership with them.

Sincerely,

Henry Dayday, Mayor”

“Muskeg Lake Cree Nation
Suite 100 - 103-B Packham Avenue
Saskatoon, SK S7N 4K4

November 18, 1993

Chief’s Message:

It is with a great deal of pride as Chief of the Muskeg Lake Cree Nation, that I announce the opening of *Veterans’ Plaza*. As a tribute to our veterans and others who have fought for our freedom, *Veterans’ Plaza* will stand in their honour.

The *Veterans’ Plaza* is the first phase in the overall development of the *McKnight Commercial Centre*. This marks the creation of the first commercial development of an Urban Reserve in Saskatchewan.

As we approach the twenty-first Century, we are eager to build on a new spirit of trust and cooperation with the Saskatoon Business Community. It is our hope, as we move forward on the path to prosperity and economic self-sufficiency, we will continue to maintain respect for our traditional values. It is our objective to develop a partnership with the business and investment community that is mutually beneficial. The unique situation created by an Urban Reserve leads to exciting business opportunities and consequently new, structured partnerships will be established. The partnership between the Muskeg Lake Cree Nation and the City of Saskatoon is the first of these new partnerships that will lead to a legacy of prosperity.

I invite you to join us as full and equal partners as we accept the challenges of the future, to achieve prosperity for our communities.

The Muskeg Lake Cree Nations’ vision is to create an atmosphere where both communities will grow through economic development, enhanced employment, shared cultural values, pride, respect and mutual prosperity.

Sincerely,

Harry J. Lafond
Chief, Muskeg Lake Cree Nation”