



# District of Port Hardy

## AGENDA

### COMMITTEE OF THE WHOLE MEETING TUESDAY JUNE 25, 2019 AT 6:30 PM COUNCIL CHAMBERS

*We respectfully acknowledge that this meeting is being held on the traditional territory of the Kwakiutl People, Gilakas'la*

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**A. CALL TO ORDER**

**B. APPROVAL OF AGENDA AS PRESENTED (OR AMENDED)**

1. *Recommendation: THAT Council approve the agenda of the Committee of the Whole meeting held June 25, 2019 as presented.*

*Motion.*

1.

2.

**C. BUSINESS ARISING FROM THE MINUTES AND UNFINISHED BUSINESS**

1. None in agenda package.

**D. STAFF REPORTS**

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1. Lynda Sowerby, Director of Finance re: Port Hardy Christian Fellowship request for tax debt forgiveness.

[Staff Report Lynda Sowerby, Director of Finance re Port Hardy Christian Fellowship Request for Tax Debt Forgiveness](#)

[Backup Information Letter - PHCF, G Ewald](#)

[Backup Information policy CP2.8 permissive exemptions](#)

*Motion.*

1.

2.

14 - 15

2. Heather Nelson-Smith, Director of Corporate Services re: Providence Place Zoning.  
[Staff Report Heather Nelson-Smith, Director of Corporate Services re Providence Place Zoning](#)

**E. ADJOURNMENT**

*Motion.*

1.

2.



## DISTRICT OF PORT HARDY STAFF REPORT



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**DATE:** June 25, 2019  
**TO:** Mayor and Councillors  
**FROM:** Lynda Sowerby, Director of Finance  
**RE:** **Port Hardy Christian Fellowship request for tax debt forgiveness**

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### PURPOSE

To provide Council with information relating to the *Community Charter (CC)* and local governments authority on legislation surrounding forgiveness of tax debt, in order that Council may be able to make an informed response to the request from Providence Place for debt forgiveness of \$60,310 of outstanding property taxes.

### ATTACHMENTS

- 1) Letter received May 21, 2019 from George M Ewald, Pastor of Port Hardy Christian Fellowship and manager of Providence Place.
- 2) District of Port Hardy Permissive Tax Exemption Policy # CP2.8.

### BACKGROUND

Property taxation is the main source of revenue for municipalities in British Columbia. Taxes are levied by the municipality to raise revenues for their own needs, and the municipality also levies taxes on behalf of other public authorities (school & police tax, regional district & hospital tax, etc.). Taxation, as per *CC s.197*, is levied based on the assessed value of the land and improvements, and a tax rate is set for each property class.

The British Columbia Assessment Authority (BCAA) is responsible for assessing the valuation of all properties in the province. BCAA's primary objective is to produce annual independent and uniform property assessments for all properties and is responsible for determining the market value and classification of all properties. Each property owner receives an assessment notice from BCAA annually. The property owner may contact BCAA to discuss how the property valuation was determined and ensure that BCAA has the appropriate information to correctly classify and assess the property. The owner may appeal the assessment decision prior to January 31<sup>st</sup> each year.

Under the *CC s.25* – General prohibition against assistance and exceptions to a business, it states that a council must not provide a grant, benefit, advantage or other form of assistance to a business, including an exemption from a tax or a fee, unless expressly authorized under the Act. However, the Act does have a provision allowing council the authority to grant a permissive tax exemption providing the subject property meets specific criteria established under *CC s.224*.

In addition, *CC s.220* provides general statutory exemptions. Properties are automatically granted the property taxation to educational institutions, hospitals, churches, or properties that meet the criteria under this section. The subject property has been granted a statutory exemption for the

8,900 square foot portion of the building and the land on which the building stands, that has been set aside for public worship.

When taxes, rents or lease payments are no longer collectible, a municipal council may write-off outstanding amounts owed to them. Provincial Approval (Minister's Order) must first be obtained prior to the municipality writing off the debt. The Province will only consider write-offs when the debt is uncollectible because of circumstances such as a mobile home has been removed, the property has been destroyed, or a lessee has declared bankruptcy. If a situation for write-off of taxes was considered, the municipality would need to offer the same consideration for every taxpayer in a similar situation. Request for a write-off based on the inability to pay, or assertion that the property taxes are unjust, would not be considered uncollectible by the province, and therefore are not eligible for write-off.

At the tax sale held September 24, 2018 there were no bidders on the Providence Place property, therefore, the District of Port Hardy was declared the purchaser of the Providence Place property. The registered owner, or the owner of a registered charge against the parcel, have until September 24, 2019 to redeem the property. Failure to redeem the property will result in transfer of title to the District of Port Hardy.

#### **ANALYSIS**

The District has not overcharged or made an error when the levy for property taxes was calculated on the property. The annual tax levy on Providence Place has been calculated as per CC s.197; based on the assessed value of the land and improvements and the tax rate as set for each property class.

The District cannot consider the outstanding taxes in question to be uncollectible. The annual tax sale allows municipalities the tool of selling real property, enabling the recovery of unpaid taxes, penalties and interest (the upset price); therefore, the write-off of the taxes cannot be considered.

The \$60,310 that has been requested for forgiveness is comprised of municipal tax levy and taxes that were levied by the District on behalf of other public authorities. The taxes levied on behalf of other public authorities is not ours to forgive. Although the District has not collected all taxes, the portion levied for other public authorities has been forwarded and are not recoverable.

The CC s.25 does not allow the municipality to provide any type of assistance to a business. Debt forgiveness cannot be granted unless the same consideration is granted for all situations that are similar.

It is the responsibility of the property owner to ensure that BCAA is properly apprised of any changes in actual use of the property. It is also the responsibility of the property owner to question BCAA on valuations that they consider incorrect.

The District advertises annually in the local newspaper and on the website for any eligible not-for-profit organization offering community and social services to submit application prior to September 1<sup>st</sup> each year. The Port Hardy Christian Fellowship should review the policy guidelines and make application for a permissive tax exemption if all or part of the Providence Place building usage meets the eligibility criteria.

*District of Port Hardy*

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**FINANCIAL IMPLICATIONS**

The current taxes outstanding on this property will remain as taxes receivable until paid by the owner. If the property is not redeemed, staff will provide Council with a report on the financial impact of District ownership. All applications for permissive tax exemptions will be reviewed by Council as per Councils Permissive Tax Exemption Policy.

**OPTIONS**

1. That Council direct staff to advise the Port Hardy Christian Fellowship that the District is not able to forgive the \$60,310 in tax debt as requested.
2. That Council direct staff to inform Port Hardy Christian Fellowship of the application process for Permissive Tax Exemption.
3. That Council provide further direction to staff.

**STAFF RECOMMENDATION**

*"THAT Council choose both option 1 and option 2."*

Respectfully submitted,

I agree with the recommendation.

  
Lynda Sowerby  
Director of Finance

  
Allison McCarrick  
Chief Administrative Officer

District of Port Hardy

Dear mayor and counsel.

May 21, 2019

We thank you for taking the time to see us and to hear our delegation and its request as representatives of Port Hardy Christian Fellowship and Providence Place.

We are seeking tax debt forgiveness based on what we feel are financial facts that have come to light.

A little about our ministry:

Currently we are housing 30 residents. They are mostly disabled and seniors as that is our housing mandate.

We have done over \$150,000 in benevolent housing since we purchased Providence Place helping people who for various reasons could not help themselves.

We have housed people from the LGBTQ community, Buddhists, atheists

We have housed people after fires took their homes and they had no insurance.

We have housed families, women and men to help them escape domestic violence.

We have housed families when homes were filled with mold and remediation was not quick in coming. One of those was with us over a year as their house was being rebuilt.

We have had senior clients with us for as long as three and a half years until finally admitting them into extended care.

We have given people with social disabilities an opportunity for peace and safety in their lives. Some for the first time ever. One man said it was the first time in 30 years he had his own place. Taking him from the streets to a home. He has since moved into his own apartment after being with us for over a year.

We have run a successful youth emergency housing pilot project for the district of Mt Waddington and VIHA in conjunction with the Crisis Centre.

On top of all that we house advocacy programs, drug and alcohol programs, men's help groups, our youth drop in centre and have hosted governed parental visits for struggling families among many other one off programs and services. Of course we have also had a house of worship and all the ministry that goes along with that.

Along with all that, in the last year and half we have housed the Salvation Army sobering and assessment centre in a shared space partnership.

Providence Place Tax Liability

2018	16,155
2017	21,199
2016	35,994
2015	29,324
2014	28,735
2013	29,180
2012	26,673
2011	25,990
2010	26,671
2009	22,476
Total	243,397

10 year average 24,340

Last 2 years adjustment average of \$18,677 (since having the proper level of taxation being applied)

10 years at \$18,677 = \$186,770. \$243,397 – \$186,770 = a 10 year overpayment of \$56,627 with interest paid on that @ 6.5% (not including any compound interest) of \$3,680 for a total of \$60,310 overpayment.

This does not include all the compound interest that was overpaid due to this overcharge but would probably take an actuarial to figure out. We are not asking for an adjustment on that interest but for debt forgiveness on what is easily and clearly discerned as an overcharge of tax.

I believe everyone on counsel knows we have never had a pub, lounge, beer and wine store or licensed restaurant since purchasing the hotel in 2009. All the while until the last 2 years we were being assessed by the BC assessment authority and the District of Port Hardy as if we did. It was only upon an extreme over assessment of over half a million dollars, based on our fair market value, that this was found out. This in turn directly affected the taxes levied against us by the District of Port Hardy. That on top of the fact the BC Assessment Authority was not giving us any breaks for the housing we have done and are doing also directly affected our taxes assessed by The District of Port Hardy.

We humbly ask for this debt forgiveness of \$60,310.00 to be forgiven by the District of Port Hardy. The remainder of the outstanding tax debt funds from us in the amount of \$24,974.90 plus applicable interest will be paid by us on or before September 24<sup>th</sup>, 2019 as per the District of Port Hardy notice of tax default.

Thank you

Sincerely,



George M Ewald

Pastor of Port Hardy Christian Fellowship and manager of Providence Place.

DISTRICT OF PORT HARDY

POLICY MANUAL

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COUNCIL POLICY  
FINANCE

PERMISSIVE TAX EXEMPTION POLICY

POLICY # CP2.8

Original Approved: May 14, 2002  
Last Amended: September 24, 2013

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**Preamble**

A permissive tax exemption is a means for Council to support organizations within the community which further Councils objectives of enhancing quality of life (economic, social, cultural) and delivering services economically. This policy guides identification of organizations meeting Councils objectives.

**POLICY**

**1.Overall Amount**

The total amount of revenue to be foregone by permissive tax exemptions to be approved will be set by Council annually during the development of the Financial Plan.

**2.Process**

Council will consider applications for permissive tax exemptions annually. The opportunity to apply will be advertised 2 times in the local newspaper and by letters mailed to tax exemption recipients designated in the preceding tax year.

Applications must be submitted to the Corporate Officer, using the prescribed form, before September 1st of the year prior. The Corporate Officer will review the application for completeness, and arrange contact with applicants for additional information as necessary.

Application submissions must include:

- Copy of current audited financial statements
- Description of programs/services/benefits delivered from the subject lands/improvements including participant numbers, volunteer hours, benefiting groups/individuals/special needs populations, fees charged for participation
- Description of any 3<sup>rd</sup> party use of the subject land/improvements including user group names, fees charged, conditions of use

The Corporate Officer will present a summary report of the applications, relative to the eligibility criteria, to Council and arrange for delegations to Council by applicants as necessary.

**3.Eligibility Criteria**

(a) Subject Property must be one of:

- Land and/or improvements owned by the District of Port Hardy
- Land and/or improvements ancillary to a statutory exemption under s 220 of the Community Charter

(b) Nature of Organization must be:

- Non-profit organization
- Charitable/philanthropic organization
- Athletic or Service Club/Associations

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POLICY MANUAL

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COUNCIL POLICY  
FINANCE

PERMISSIVE TAX EXEMPTION POLICY

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- Care facility/licensed private hospital
  - Partner of the municipality by agreement under s 225 of the Community Charter
  - Other local authority
  - Organization eligible to s. 220 statutory exemption (e.g. place of public worship, cemetery, library, seniors homes, hospital, etc.)
- (c) The applicant organization's use of the land/improvements must benefit the community in one or more of the following ways:
- provides recreational facilities for public use
  - provides recreation programs to the public
  - provides programs to and/or facilities used by youth, seniors or other special needs groups
  - preserves heritage important to the community character
  - preserves an environmentally, ecologically significant area of the community
  - offers cultural or educational programs to the public which promote community spirit, cohesiveness and/or tolerance
  - offers services to the public in formal partnership with the municipality

**4.Duration of Exemption**

Eligible organizations may be considered for tax exemptions exceeding one year (to a maximum of 10 years) where it is demonstrated that the services/benefits they offer to the community are of a duration exceeding one-year (i.e. for the period of the tax exemption).

**5.Extent, Conditions, and Penalties**

(a) Council may designate only a portion of the land/improvements as exempted where the following circumstances exist:

- A portion of the land/improvements is used by the private sector and/or organizations not meeting Council's exemption criteria
- the applicant already receives grant-in-aid from the municipality

(b) Council may impose conditions on the exempted land/improvements with the applicant organization, including but not limited to:

- registration of a covenant restricting use of the property
- an agreement committing the organization to continue a specific service/program
- an agreement committing the organization to have field/facilities open for public use for certain times or a total amount of time
- an agreement committing the organization to offer use of the field/facility to certain groups free of charge or at reduced rates
- an agreement committing the organization to immediately disclose any substantial increase in the organization's revenue or anticipated revenue (e.g. receives large operating grant from senior government)



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FINANCE

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(c) Council may impose penalties on an exempted organization for knowing breach of conditions of exemption, including but not limited to:

- revoking exemption with notice
- disqualifying any future application for exemption for specific time period
- requiring repayment of monies equal to the foregone tax revenue

6. Accountability

Approved applicants, at the request of council, may be required to present to Council an update of the organization's activities.

This update will be presented at an open Council meeting prior to August 31 of the exemption year.

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DISTRICT OF PORT HARDY  
PERMISSIVE TAX EXEMPTION

APPLICATION

In the Matter of the Taxation Exemption Bylaw  
Pursuant to Section 224 of the Community Charter in the District of Port Hardy  
(exemption from taxation under Annual Rates Bylaw)

Pursuant to Section 224 of the Community Charter (see attached for your convenience)

I, \_\_\_\_\_ of \_\_\_\_\_  
Name Street Address

\_\_\_\_\_ Telephone No. (\_\_\_\_) \_\_\_\_\_ or (\_\_\_\_) \_\_\_\_\_  
Town Home Work

In the Province of British Columbia, do solemnly declare THAT:

1. I am the \_\_\_\_\_ of the \_\_\_\_\_  
Position Currently Held Within Organization  
Name of Corporation, Association, Society or Organization

Have knowledge of the facts hereinafter deposed with respect to the following property for which a tax exemption is being applied for:

\_\_\_\_\_ Property Address \_\_\_\_\_ Property Zoning \_\_\_\_\_ Roll No.

\_\_\_\_\_ Legal Description of Property

2. Full name or title of organization: \_\_\_\_\_

3. Mailing address of the organization (including Postal Code):  
\_\_\_\_\_  
\_\_\_\_\_

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**4.** Name and phone number of two other officials in organization (i.e. Pastor, President, Manager, etc.)

1. Name: \_\_\_\_\_ 2. Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Day Phone No.: \_\_\_\_\_ Day Phone No.: \_\_\_\_\_

Night Phone No.: \_\_\_\_\_ Night Phone No.: \_\_\_\_\_

**5.** The lands are registered in the name of:

\_\_\_\_\_  
\_\_\_\_\_

The exemption claimed under Section 224 is pursuant to Subsection 2, Clause \_\_\_\_\_  
*Please supply the relevant clause designation from Section 224.*

**6.** The gross floor area of the building:

\_\_\_\_\_

**7.** Size of land area \_\_\_\_\_

**8.** What is the principal use of the property?

\_\_\_\_\_

**9.** Is any part of the building or of the property used or rented by commercial or private operators or by any group other than your organization?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**10.** Please provide details of other activities on your property, such as daycare centers, catering and hall rental, thrift shop.

The following information is required for each activity:

- Hourly per day and/or days per week of operation
- Fee or charge
- Approximate number of participants
- Is the activity operated by an outside organization:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**11 (a)** How is your organization consistent with District policies, plan, bylaws, codes and regulations?

\_\_\_\_\_

DISTRICT OF PORT HARDY

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(b) How is your organization non-profit?

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(c) How is your organization a complementary extension to District services and programs?

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(d) How is your organization accessible to the public?

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(e) How is your organization used primarily by Port Hardy residents?

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12. Other activities which may be pertinent to your application:

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13. Does anyone live in the buildings? If yes, how many people?

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14. Has there been any change in the status or use of the buildings or property in the last 12 months? If yes, please explain briefly.

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**ATTACHMENTS**

Copy of current audited financial statements  attached

Current site plan of the property indicating the grounds and buildings and their uses, including buildings, storage buildings, walkways, parking lot, playgrounds, bush areas, etc.  attached

AND I make this solemn declaration, conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath, and by virtue of the CANADA EVIDENCE ACT.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name



# DISTRICT OF PORT HARDY

## STAFF REPORT



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**DATE:** June 20, 2019 **FILE:** Reports to CAO  
**TO:** Allison McCarrick, Chief Administrative Officer  
**FROM:** Heather Nelson-Smith, Director of Corporate & Development Services  
**RE:** **Providence Place Zoning**

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### BACKGROUND

At the regular meeting of Council May 28, 2019, a presentation was made by George Ewald regarding the use of Providence Place located at 7050 Rupert Street. The uses as described by Mr. Ewald included the following:

- Benevolent housing which includes long term residence.
- Housing seniors and those waiting for extended care for more than three years.

Staff reviewed the zoning of 7050 Rupert Street and residential is not a permitted use under their Comprehensive Zone designation.

### ZONING

#### 12.1 CD-1: Comprehensive Development 1

The purpose of this zone is to permit site specific mixed institutional, commercial and tourist accommodation uses on land located at 7050 Rupert Street, legally described as Lot 10, Section 36, Township 9, Rupert District, Plan 27270.

(a) The following principal uses are permitted:

- (1) Assembly
- (2) Community Care Facility
- (3) Community Kitchen
- (4) Day Care Facility
- (5) Education Services
- (6) Family Resource Centre
- (7) Hotel
- (8) Professional Service Establishments
- (9) Restaurant
- (10) Retail Sales

(b) The following accessory uses are permitted:

- (1) Accessory Buildings and Structures (see section 3.9)
- (2) Offices

“**Hotel**” means a building in which rooms are maintained for the temporary accommodation of the travelling public. A hotel may include ancillary facilities such as a restaurant, meeting rooms, convention facilities, gift shop, recreational facilities and/or licenced premises. Hotel includes inn, hostel, motel and other similar forms of accommodation provided to the travelling public but does not include campground or tourist cabin.

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**REQUIREMENTS**

Staff will follow up with the owners of 7050 Rupert Street and notify them that a rezoning application will be required for consideration by Council regarding the non conforming residential use on the property.

Respectfully submitted,



Heather Nelson-Smith  
Director of Corporate &  
Development Services

I support the staff report,



Allison McCarrick  
Chief Administrative Officer