

Request for Decision

Title	Request for Tax Agreement – MAGA Energy
Proposed Motion	That Council refuse MAGA Energy's request to enter into a tax agreement with Sturgeon County.
Administrative Recommendation	Administration recommends that Council decline MAGA Energy's proposal to enter into a tax agreement to pay off taxes in arrears and current year taxes.
Previous Council / Committee Direction	<u>July 18, 2023 Regular Council Meeting</u> Motion 271/23: That Council refer the request from MAGA Energy for a tax agreement to Administration to present information and a recommendation at a future Council Meeting.
Report	<p><u>Background Information</u></p> <ul style="list-style-type: none"> MAGA Energy contacted Administration in May 2023 to work out a tax payment plan to pay off taxes in arrears, as well as current year taxes. As of July 31, 2023, MAGA Energy has \$385,550.29 in taxes owing dating back to 2021, summarized as follows: <ul style="list-style-type: none"> \$225,592.26 in tax arrears \$159,958.03 current year taxes and penalties MAGA Energy has proposed to pay \$7,000 per month for the remainder of 2023 and starting in January 2024, \$15,000 per month in addition to all annual tax levies in one lump sum payment on or prior to the last business day in June each year, until all tax arrears are paid. Based on this proposal, their tax accounts would be in good standing by 2026. Since contacting Administration in May, MAGA Energy has paid \$7,000 per month (a total of \$21,000) towards their taxes owing. <p><u>Legislation Supporting Municipalities</u></p> <ul style="list-style-type: none"> Typically, when an account is in arrears for more than 3 years, the property is sold at public auction to recover amounts owing. For linear property, this is not the case as there is no property to sell; therefore, new provincial legislation has been enacted to support municipalities in addressing unpaid oil and gas property taxes. A ministerial order recently issued by Alberta Energy to the Alberta Energy Regulator (AER) has now made payment of municipal taxes a mandatory condition for approving new well licences to companies or

well licence transfers between companies. Applications are closed for those companies whose unpaid municipal taxes across the province exceed the maximum threshold as set by AER, or if those companies do not have a tax repayment agreement in place with the municipalities that they have outstanding taxes with.

- Bill 77, also known as the *Municipal Government (Restoring Tax Accountability) Amendment Act*, 2021, was proclaimed in December 2021. With Bill 77 in force, there is now section 348.1 of the *Municipal Government Act* (MGA), which provides that taxes on linear property, as well as machinery and equipment, are a special lien which takes priority over every person except the Crown, and which applies to all the debtor's assessable property located within the municipality. This gives linear property taxes a secured status with a very high priority, which helps to motivate oil and gas taxpayers to address outstanding taxes.

Legislation as it Applies to MAGA Energy

- MAGA Energy is currently identified on the Sturgeon County list with AER as being a company that has unpaid property taxes and does not have an agreement; therefore, any new well licence applications and well licence transfer applications are closed.
- As MAGA Energy has arrears owing to the County, the special lien identified in section 348.1 of the MGA is automatically in effect. This gives Sturgeon County's unpaid taxes a special priority status over the claims of other creditors, except the Crown.

Other Considerations

- Fairness and equity - There are other oil and gas companies who have paid their municipal taxes by the due dates.
- Burden on other taxpayers - At certain points in the year, the County relies on cashflows coming in. When that does not occur, a line of credit is required. The interest paid is at a higher rate than the penalties applied to taxes outstanding. There are also other times when the County could earn interest that would be used to fund other projects throughout the County.
- Risk of not being paid - Even if a repayment plan is agreed to, there is a risk that Sturgeon County will not be fully repaid by 2026. Noncompliance with the agreement would result in Administration putting MAGA Energy back on the AER list for unpaid taxes; however, any new well licences or well licence transfer applications approved prior to breach of the agreement would remain.

External Communication

- Administration will advise MAGA Energy of Council's decision.

Relevant Policy/Legislation/Practices

- Section 333.1 of the *Municipal Government Act* (MGA) states that a municipality may make a tax agreement with an assessed person.

	<ul style="list-style-type: none"> Section 347(1) of the MGA states that Council may, if it considers it equitable to do so, defer the collection of a tax. Section 348.1 of the MGA assigns a special priority lien for tax debt on linear property or machinery and equipment.
Implication of Administrative Recommendation	<p><u>Strategic Alignment</u></p> <p>Collaborative Governance - Administration presents this information to Council to ensure that clear, transparent processes are adhered to and communicated.</p> <p>Operational Excellence - The information provided supports Council's ability to make short and long-term financial sustainability decisions.</p> <p><u>Organizational:</u></p> <ul style="list-style-type: none"> Administration would notify MAGA Energy of Council's decision. Administration would continue to maintain MAGA Energy's status on the AER list as a company with tax arrears owing. <p><u>Financial:</u></p> <ul style="list-style-type: none"> There is a risk that not reaching an agreement may lead to no further payments being made by MAGA Energy towards the taxes owing, resulting in Sturgeon County having to write off the balance as well as forego future year balances.
Alternatives Considered	Council could accept MAGA Energy's request to enter into a tax agreement with Sturgeon County.
Implications of Alternatives	<p><u>Strategic Alignment</u></p> <p>Operational Excellence - If an agreement were to be accepted and MAGA Energy were to uphold the terms of the agreement, it would support long term financial planning and sustainability.</p> <p><u>Organizational</u></p> <ul style="list-style-type: none"> Administration would notify MAGA Energy of Council's decision. Administration would update MAGA Energy's status on the AER list as a company that has an agreement in place to pay back the tax arrears owing. <p><u>Financial</u></p> <ul style="list-style-type: none"> Cashflows expected in 2024 would be partially deferred to 2025. There is the risk that the terms of the agreement would not be upheld by MAGA Energy and therefore Sturgeon County may not receive the full taxes owing or future taxes.
Follow up Action	1. Inform MAGA Energy of Council's decision (Corporate Finance & Treasury, August 2023).

Attachment(s)	1. Attachment 1: MAGA Energy July 18, 2023 Council Meeting Presentation
Report Reviewed by:	Sabrina Duquette, Acting General Manager, Financial Services & Chief Financial Officer Reegan McCullough, County Commissioner – CAO

Strategic Alignment Checklist

Vision: *Offering a rich tapestry of historical, cultural, and natural experiences, Sturgeon County is a municipality that honours its rural roots and cultivates desirable communities. Uniquely situated to provide world-class agricultural, energy, and business investment opportunities, the County prioritizes responsible stewardship and dreaming big.*

Guiding Principles: Collaboration | Accountability | Flexibility | Excellence | Safety | Future Readiness | Affordability | Innovation

Community Outcome	Not consistent	Consistent	N/A
Planned Growth			
<ul style="list-style-type: none"> Internationally competitive to attract, grow and sustain diverse businesses; tenacious focus on new growth and innovation 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Modern broadband and digital capabilities 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Low cost, minimal red-tape regulations 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Reliable and effective infrastructure planning; comprehensive land use and infrastructure planning 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Thriving Communities			
<ul style="list-style-type: none"> Beautiful, surprising places with high standards; integrated natural spaces & trail systems; healthy and resilient 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Engaging cultural, historical, and civic amenities; strong community identity and pride 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Safe, welcoming, and diverse communities; small community feel and personal connection; commitment to high quality of life 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Stewardship			
<ul style="list-style-type: none"> Clean air, land, and water; Carbon neutral municipal practices; circular economy opportunities 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Conservation of natural areas and agricultural lands; enhanced greening and biodiversity; safekeeping ecosystems 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Sustainable development; partnerships with industry and others to drive emission reductions 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Collaborative Governance			
<ul style="list-style-type: none"> Predictable and stable external relationships; volunteer partnerships 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Meaningful connections with Indigenous communities 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Ongoing community consultation and engagement; transparent and action-oriented decision making based on sound rationale 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Respectful and informed debate; clear and supportive governance processes 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Operational Excellence			
<ul style="list-style-type: none"> Engaged and effective people – Council, Admin and Volunteers; continuous learning and improvement mindset; nimble and bold, with strong leadership 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Quality cost-effective service delivery; robust procurement and operational practices and policies; asset management and performance measurement; careful debt and reserve stewardship; long-term financial planning and sustainability 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> Future focused thinking to proactively respond to emerging opportunities and challenges 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> Alternative revenue generation and service delivery models integrated strategic and business planning 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>