The Community Capitalism of the Fort McKay First Nation

A Case Study

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Contents

Executive summary

"Community capitalism" is the term used here to describe a politico-economic system in which a First Nation uses its assets (land, location, natural resources, and money) to generate income and provide social services for its members. The Fort McKay First Nation (FMFN) furnishes an important case study of community capitalism. As a result of its remarkable success, its characteristic features stand out in sharp relief. Its wholly owned and joint-venture business enterprises generated an annual average of $506 million gross revenue in the five-year period from 2012 to 2016. But FMFN does not just have an impressive business portfolio; it has also succeeded in raising the standard of living of its members, as measured by the Community Well-Being Index.

FMFN has achieved prosperity by participating in the economy of the Alberta oil sands, which is important because the best hope for prosperity of many First Nations in remote locations is involvement in nearby resource plays. Yet FMFN has never produced a drop of oil or earned a dollar in royalties; its success has come from providing services such as janitorial care, earth moving, logistics, and workforce lodging to corporations developing the oil sands.

For the last five years, government transfers have averaged only about 5% of FMFN's total revenues. Own-source revenue (OSR) has accounted for the other 95%. Revenues consist of business profits, interest from investments, property taxes, rent on land and housing, and payments from corporations that have had an impact on FMFN's traditional territory. There was one bad fiscal year ending March 31, 2016, when OSR plunged because oil prices plunged from US$109.89 per barrel (West Texas Intermediate) in June 2014 to US$29.67 in January 2016. But FMFN reduced its expenditures, liquidated non-performing enterprises, modified its investment strategy towards greater income stability, and quickly returned to the black. Its performance in dealing with this challenge was better than that of many senior governments faced with similar losses of revenue.

FMFN uses its revenues to provide an enhanced standard of living for members. Benefits include comfortable housing, better education and medical care, new community facilities, and annual cash distributions to members calculated by a formula based on business profits. Chief and council are considered to be business executives and remunerated accordingly. The relatively small population of the local community (560 in the 2016 census) fosters such generosity, but FMFN also provides benefits to off-reserve members, many of whom live in Fort McMurray.

FMFN's economic and social success is underpinned by its practice of "consensus government," which includes adherence to the rule of law, separation of business and politics, and extensive consultation with members. Political leadership is crucial, and Chief Jim Boucher has provided stable leadership and vision since 1986. But the model of consensus government is also an important part of its success. It means not only obtaining agreement of all members of council for important initiatives, but also holding frequent consultative meetings with members (both on and off reserve) while fully disclosing information such as annual audited financial statements and the compensation of Chief and Councillors. It also means separating business from politics by appointing independent boards of directors.

Community capitalism, based on consensus government and ongoing political support from members, is a promising model for promoting the independence and improving the standard of living of Canada's First Nations. FMFN's dramatic results are to some extent dependent on its relatively small population and the opportunities afforded by its location in the heart of the oil sands, but opportunities have to be seized in order to become beneficial. FMFN has developed friendly business relations with nearby corporations, reinvested revenues generated from impact-benefit agreements, and also used the Indian Act exemption from taxation to turn its reserve into a no-tax growth zone. Other First Nations, no matter their size and location, may benefit from studying the principles of FMFN's community capitalism and adapting them to their own unique situation.

Introduction

> *"The government has only a couple hundred billion dollars in their spending budget and that's small compared to the Canadian economy, which generates trillions of dollars. So if you want to know where the opportunities lie, they are in the Canadian economy and not in government largess."*
>
> Chief Jim Boucher, quoted in Bradford, 2016: 7.

This paper introduces the term "community capitalism" to describe a politico-economic system in which a First Nation uses its assets (land, location, natural resources, and money) to generate income and social services for its members.[1] It is a form of capitalism because it involves buying, selling, and investing in Canada's market economy. It is "community capitalism" because the government manages the assets on behalf of the First Nation community. There may also be individual entrepreneurs, but the First Nation government plays the leading role. The First Nation may establish or purchase corporations to carry out business, but the community is not a corporation. Its ownership structure is a unique blend of political and economic institutions operating in most cases within the framework of the Indian Act.

Community capitalism is now a major phenomenon in the world of First Nations. A recent estimate is that First Nations in Canada generate over $3 billion a year in own-source revenues, using their reserve lands and right to be consulted on their traditional territories to participate in Canada's market economy (Flanagan and Jackson, 2017: 12). That is a sizable amount of income compared to the approximately $6.6 billion transferred to First Nations by Indian and Northern Affairs Canada (INAC) in fiscal 2015/16 for support of community services.

Several reasons make the Fort McKay First Nation (FMFN) an interesting case study of community capitalism. As a result of its remarkable success, its characteristic features stand out in sharp relief. Its wholly owned and joint-venture business enterprises generated an annual average of $506 million in gross revenue in the five-year period from 2012 to 2016 (FMFN, 2017). But FMFN does not just have an impressive business portfolio; it has also succeeded in raising

1. My usage of the term is quite different from that of American authors such as Richard P. Taub (1988), and Ron Kitchens, Daniel Gross and Heather Smith (2008), who use it to describe the role of local government in municipal redevelopment. Such governments do not own all the assets and do not control the local economy in the same way as First Nations' governments.

the standard of living of its members. Its Community Well-Being Index—a composite of income, housing, employment, and education data updated from the census every five years—has risen from 57 in 1996 to 76 in 2011, putting it 17 points above the average of First Nations (59) and only three points below the average of non-Aboriginal Canadian communities (79) (Flanagan and Harding, 2016: 7, 20). According to Statistics Canada (2017), the average after-tax income for Fort McKay residents was $73,571 in 2015—significantly higher than Alberta's ($50,683) and Canada's ($38,977).

The Fort McKay First Nation has achieved prosperity by participating in the resource economy of the Alberta oil sands, which is important because the best hope for prosperity of many First Nations in remote locations is involvement in nearby resource plays, whether oil and gas (Bains, 2013), hard-rock mining, forest products, fisheries, or agriculture. Yet FMFN has never produced a drop of oil or earned a dollar in royalties; its success has come from providing services to natural resource corporations. This is good news for First Nations because it shows that ownership of natural resources and possession of sophisticated technology—useful as those are in the business world—are not essential. Success can come through unglamorous but necessary services—janitorial care, trucking, earth moving, and workforce lodging—that can realistically be provided by new entrants into the industrial labour force.

The FMFN's success in generating and sharing wealth is underpinned by its approach to governance. One official described its system of governance in these terms:

> In addition to its entrepreneurial focus, FMFN Chief and Council have adhered to principles of good governance and the concept of the rule of law as applied through the lens of its culture and history. The Chief and Council make decisions on a consensus basis, and the rule of law is enshrined in FMFN customary election laws. This requires the Council to work cooperatively for the community's benefit and avoids partisanship at the Council table, which can and often does paralyze First Nation governments. In addition to consultation meetings with Membership, the customary election laws require Quarterly General Meetings at locations both on and off Reserve, and all laws and policies are reviewed with members before implementation. FMFN has moved increasingly to processes of dispute resolution such as third party arbitration, separating politics from adjudicative functions. Overall, these initiatives have worked hand in hand with its economic policies to create a climate conducive to community capitalism and investment. (Personal communication by e-mail, from staff of Fort McKay First Nation, December 31, 2017.)

Like all First Nations, FMFN was and still is handicapped by the paternalistic regime of the *Indian Act*, which poses many obstacles to participation in the business world. But at the same time, FMFN has assets to draw on, including a long commercial history. The fur trade flourished in the Athabasca River valley from 1778, after Peter Pond established the first trading post at Fort Chipewyan on the Athabasca delta. The members of FMFN were self-supporting trappers and traders who had never experienced the welfare dependency that undermined many First Nations further south. FMFN thus had some cultural preparation for taking advantage of the new trading opportunities created by development of the oil sands. Also, the hamlet of Fort McKay is located in the centre of what has become one of the biggest industrial developments on earth. It is surrounded on all sides by oil sands mining and *in situ* operations, creating an enormous demand for labour and services. Even as it threatened the traditional livelihood of FMFN, the development of the oil sands created a new world of opportunity for FMFN to exploit.

The research methodology for this report involved a visit to FMFN to interview Chief Jim Boucher and senior staff members, prior and subsequent conversations and e-mail exchanges with staff, and a review of printed and online sources. When factual assertions in the paper are not documented with reference to printed or online sources, they are based on my understanding of conversations with the Chief and staff. Audited annual financial statements for the last five years, filed under the *First Nations Financial Transparency Act*, are archived online at the website of Indigenous and Northern Affairs Canada under the heading of First Nation Profiles, along with a variety of other information. Journalists have already profiled FMFN's success in the business world (*Canadian Business Journal*, 2017). The purpose of this research is not to produce another such description but to analyze the legal, political, and institutional aspects of community capitalism that have made FMFN's achievements possible. Better understanding of these factors may help other First Nation communities to achieve success in their own way. There is no single formula for success, but awareness of recurrent factors and patterns can be helpful.

A Little History

Commercial exploitation of the oil sands began in 1967 with the opening of the Great Canadian Oil Sands (later Suncor) mine. The huge Syncrude mine, owned by a consortium of companies, was established in 1978. As oil sands production shifted into high gear, native people's traditional way of life, based on trapping, hunting, and fishing, was increasingly threatened not only by the open-pit mines but by associated exploration and construction of roads and utility corridors. At first, FMFN resisted, going so far as to erect a blockade in 1983 to slow down logging trucks rumbling through the village of Fort McKay (Tattrie, 1983). But FMFN's attitude shifted from confrontation to cooperation as members realized that environmentalists' opposition to the fur trade, combined with local disruption of the environment, was going to permanently undermine their traditional economy. In 1986, FMFN Chief Dorothy Hyde McDonald, who had earlier led the protests, founded the Fort McKay Group of Companies (FMGOC) as a vehicle for participating in the oil sands economy (Cryderman, 2013b). FMFN was early to see what some other First Nations have subsequently realized, that lifting themselves out of poverty does not always coincide with the agenda of environmentalism (Cattaneo, 2018).

The same year Jim Boucher, whom McDonald had hired as band administrator and who had also been a key participant in the protests, defeated McDonald in an election for the chief's position. Boucher has been chief for most of the time since then, though he did lose an election for a two-year term in 1988 to Dorothy McDonald and again in 1994 to Mel Grandjamb. With adoption of a custom electoral code in 2004, the chief's term has been extended to four years, and Boucher has been in office without interruption since 1996, though he experienced a very close call in 2011 (one vote) and another not quite so close call in 2015 (27 votes). Interestingly, his opponent in these contests was Cece Fitzpatrick, the younger sister of Dorothy Hyde McDonald (*The Guardian*, 2015). As with many First Nations, family and kinship connections constitute a powerful force in FMFN local politics. Given the small size of the community, this is unlikely to change in the foreseeable future.

The first venture of the FMGOC was a janitorial contract with Syncrude involving six employees, with later entry into hauling, delivery, earth-moving, and workforce lodging. According to Chief Boucher's recollection, growth was modest initially, with revenues of about $120,000 the first year and $6 million ten years later. But there was an explosion of revenue from 1999 ($6 million) to 2004 ($150 million). The growth of oil-sands development accelerated in those years, partly

as a result of an agreement between Alberta Premier Ralph Klein and Canadian Prime Minister Jean Chrétien to reduce both royalties and corporate income taxes on oil sands production (Cryderman, 2013a). World oil prices also went up after 2002, further boosting development. The FMFN business enterprises now generate about $500 million a year in revenue, though much of this is shared with partners in joint enterprises.

Holdings of the Fort McKay Group of Companies

The FMGOC now consists of five wholly owned companies:

1. Fort McKay Strategic Services—construction, earthworks, site services;
2. Fort McKay Logistics—transportation and warehousing;
3. Steep Bank Earth—ownership of heavy equipment used by Strategic Services and Logistics;
4. Rising Sun Services—light vehicle servicing and repairs, rentals and fleet management in conjunction with partners Summit Auto and Kiazan Auto;
5. Fort McKay Industrial Park.

In addition, FMFN through the Fort McKay Landing holding company owns a majority share (51%) in each of eight joint enterprises, all of which are managed by the minority partners:

1. Barge Landing Lodge—accommodations for oil-sands workers;
2. Caribou Energy Industrial Park;
3. Fort McKay Savanna—drilling and well service;
4. Fort McKay Savanna—oilfield rentals;
5. Hammerstone Corporation—limestone quarry;
6. First North Catering—camp management, catering, and maintenance (majority Indigenous ownership is shared with Athabasca Chipewyan First Nation);
7. Dene Koe—lodging and catering for oil-sands workers;
8. A new joint venture with Schlumberger to provide chemicals used in oil fields.

FMFN has also acquired a 34.3% equity share in Suncor's East Tank Farm Development, financed by a $350 million bond issue, discussed below in more detail.

FMFN acquires or divests itself of companies to adjust to changing business conditions. What is most important here is the intense focus on the oil sands. This may change in the future, but for now FMFN has built its business portfolio by investing and offering services close to home. This is a function of location and of having built up good personal relations with oil-sands executives such as the former CEO of Suncor, Rick George (George and Reynolds, 2012).

FMFN also encourages entrepreneurism among its own members, maintaining an industrial park on the reserve for that purpose. The Nation's website lists a score of privately owned businesses, many of which are in trucking, well-site services, earth moving, construction, and other fields relating to the oil industry. There are now several millionaire business owners among the FMFN membership. Though not the focus of this paper, individual entrepreneurialism is an important complement to community capitalism led by the FMFN government.

In 1987, about the same time that it started to participate in the oil sands industry, FMFN filed a treaty-land entitlement claim, arguing that its population had been undercounted when its land reserves were first surveyed in 1915. After a favourable recommendation from the Indian Claims Commission (Corcoran and Prentice, 1995), and after Jim Prentice became Minister of Indian Affairs and Northern Development in 2006, FMFN received 20,000 acres of additional land and $41.5 million in compensation for lost opportunity (Treaty Land Entitlement, 2006). One tract of about 8,000 acres was selected because of subsurface bitumen deposits suitable for open-pit mining; FMFN is holding this land for possible future development (Cattaneo, 2016). Most of the rest of the acreage has been dedicated to a reserve near Moose Lake and Namur Lake, intended to be kept as an undeveloped retreat for recreational and cultural purposes. To the west of the lakes lies the Birch Mountains Wildlands Park, which protects the reserve from that side (FMFN, 2016: 15). FMFN's determination to keep a ten-kilometre cordon free of surface development to the east and south of this reserve has involved it in a long and still ongoing series of negotiations and litigation with oil companies (Henton, 2016). FMFN leaders hint that, if necessary, they would revive the civil disobedience tactics of the early 1980s to keep this area pristine. In their mind, this reserve is part of the essential balance between cultural preservation and economic development, as reflected in their motto, "Inspired by our past, invested in our future" (http://fortmckay.com).

Budgets

Table 1 gives a summary view of the FMFN's revenues for the last five years. For these five years taken together, government transfers averaged only 5.3% of total revenues. FMFN has indeed become largely self-sufficient through own-source revenue (OSR), which has been reasonably consistent around the $60 million level over the last five years except for one bad fiscal year ending March 31, 2016, when it plunged to $37.7 million. Leading to that decline in OSR were fluctuations in oil prices, which plunged from US$109.89 per barrel (West Texas Intermediate) in June 2014 to US$29.67 in January 2016 (MacroTrends, 2017). That year was even worse than it appears from the above, for elsewhere on the balance sheet FMFN also showed an impairment loss of $14.8 million on business investments. This resulted from liquidating its investment in Creeburn Lake Lodge, a previously profitable joint venture with ATCO logistics in workforce lodging. But once FMFN got through the bad year of 2015/16 and oil prices recovered somewhat, its OSR returned to the more normal level of $61.1 million in 2016-27.

Table 1: Revenues ($ millions) of Fort McKay First Nation, fiscal years ending March 31, 2013 to March 31, 2017

	2013	2014	2015	2016	2017
Total Revenue	65.4	70.0	60.3	37.7	66.2
Own-Source (OSR)	63.2	67.2	57.6	34.5	61.1
Gov't Transfers	2.2	2.8	2.7	3.2	5.1
Expenditures	35.0	55.1	44.9	32.8	34.9
Surplus	30.45	15.01	15.4	4.9	31.3

Source: Compiled by the author from FMFN annual filings under the First Nations Financial Transparency Act, <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/FederalFundingNote.aspx?BAND_NUMBER=467&lang=eng>.

Table 2 takes a closer look at revenues by focussing on the fiscal year ended March 31, 2017, the most recent year for which an audited statement is available. *Business enterprise income* consists of profits from the Fort McKay Group of Companies and the joint enterprises owned by the Fort McKay Landing holding company, whereas *industry grants* are received in virtue of impact-benefit agreements or similar arrangements. FMFN land reserves and traditional territory

Table 2: Revenue sources ($ millions) of the Fort McKay First Nation, April 1, 2016—March 31, 2017

Source	Revenue
Business enterprise income	27.4
Industry grants	16.1
Long-term sustainability funding	6.3
Investment income	4.9
Property tax income	2.6
Rent	2.4
Miscellaneous	1.1
Government transfers	5.1
Total	65.9

Note: The total in this table of $65.9 millions is less than the auditor's total of $66.2 millions because of rounding errors.

Source: Compiled by the author from Fort McKay First Nation, Statement of Operations and Accumulated Surplus, Year Ended March 31, 2017, <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/DisplayBinaryData.aspx?BAND_NUMBER_FF=467&FY=2016-2017&DOC=Audited consolidated financial statements&lang=eng>.

are surrounded by oil-sands mines and steam-assisted wells that impinge in various ways on Treaty 8 rights of hunting, fishing, and trapping. These grants have been used mainly for the construction of new capital facilities such as the youth centre, seniors centre, seniors care centre, and community arena. FMFN's next big capital project will probably be a new school on the reserve. *Long-term sustainability funding* also comes from impact-benefit agreements. When new mines, wells, pipelines, roads, or processing facilities are proposed, FMFN has a right to be consulted about the impact on its reserve lands and traditional territory, and the proponents contribute to the expenses of research and consultation.

Investment income is earned mainly by a trust fund of about $50 million that was set up after conclusion of FMFN's treaty land entitlement claim. Its policy has been not to spend that money but to use the investment proceeds as a source of revenue for the annual budget. *Property tax income* consists of levies on leaseholds on the reserve, such as pipelines or other utility corridors, and premises rented on the Nation's industrial parks. Chief and Council have created a property tax system as authorized by s. 83(1) (a) of the *Indian Act* (First Nations Tax Commission, 2017). Like investment income, this is a more predictable source of revenue than business income, industry grants, or sustainability funding, which are prone to variations as the business cycle fluctuates.

Rent comes from the homes that FMFN builds and rents to members as well as from businesses that have located on the industrial parks. *Government transfers* come mainly from Indigenous and Northern Affairs Canada (INAC) ($3.3 million in the 2016/17 fiscal year) but also other federal departments, such as Health Canada, and from the Athabasca Tribal Council, which channels a small amount of money from First Nations gaming in Alberta ($105,000).

Investment income, property tax, rent, and government transfers are reasonably stable year to year, but together they account for less than 25% of FMFN's revenue. More than 75% comes from business income, industry grants, and long-term sustainability, which are subject to large fluctuations depending on the price of oil and investment decisions of surrounding corporations. FMFN's leaders are well aware of this instability; rather than spending all their OSR, they run substantial surpluses in most years (**table 3**).

Table 3: Surplus ($ millions) of the Fort McKay First Nation, fiscal years ending March 31, 2013 to March 31, 2017

2013	14.6
2014	3.2
2015	6.0
2016	−17.3
2017	24.5
Five-year total	31.0

Source: Compiled by the author from FMFN annual filings under the First Nations Financial Transparency Act, <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/FederalFundingNote.aspx?BAND_NUMBER=467&lang=eng>.

Surplus is defined on the audited financial statements as revenue minus depreciation, impairment losses on assets and business investments, and distribution of business profits (discussed in the next section). This surplus allows for savings and reinvestment to replace depreciated assets and make new investments in response to changing business conditions. There is no separate surplus fund; accountability for use of the surplus comes through publication of the annual budgets, which are openly discussed with members.

Sharing the Wealth

Beyond the obvious need of reinvestment for growing its businesses, the Fort McKay First Nation has used its earnings to help its members become better off. FMFN spends a great deal on housing. Some older homes are still in use, but most have been replaced with attractive, medium-sized houses that would not look out of place in a suburb of Calgary or Edmonton. The community builds, owns, and maintains the dwellings while renting them to members. A typical rent for a new home is $500 a month. The renter is also responsible for utilities, and non-payment of rent can lead to eviction (elders do not pay rent or utility fees). It is difficult to know what a true market rent would be because the population is so small and non-members do not compete for reserve housing, but $500 a month for a new house seems very low to an outside observer. However, there is little tradition of paying rent in First Nation communities, so it was an achievement for FMFN to have introduced payment of rent and responsibility for utilities.

Home ownership is rare at present except for a few successful entrepreneurs who have built large homes for themselves on informal land allotments. Certificates of Possession under the *Indian Act*, which have facilitated home ownership in some First Nations, are not in use in FMFN and are controversial because they transfer ownership of land from the community to individuals. FMFN, however, wants to promote home ownership, so it will attempt to use long-term leases for that purpose, more or less on the model of Canada's national parks. This avoids the conflict over Certificates of Possession because leased land remains the property of the First Nation, even though its use is transferred to an individual through the lease.

A "Long Term Leasing Law" approved by Chief and Council at the end of November 2017 will allow members to acquire 99-year renewable leases of land for home ownership. They can build new houses or convert homes they already occupy from rental to ownership. They can prepay the 99-year lease or arrange periodic payments. If they already occupy the home, they can apply previous rental payments to the purchase price. Another incentive for home ownership is the "Home Ownership Grant Policy," which provides a $25,000 grant for members buying or building a house. In the past, this has been used primarily by members who live in Fort McMurray or elsewhere off reserve, but in the future it may be used more often on reserve. Experience will show how much uptake there will be for the long-term lease option.

Education, too, is a high priority. FMFN pays for extra teachers and assistants in the local school and plans to build a new school as its next infrastructure priority. The community is so small that students must go to Fort McMurray beyond grade six, and FMFN pays for the required bussing. As well, FMFN covers expenses for members who go on to post-secondary education or vocational training. There is also a new youth centre located not far from the school.

FMFN is too small to have a hospital, but the community spends over $3 million a year on community health services, about four times as much as the annual grant received from Health Canada for that purpose. A modern clinic staffed by nurses is maintained in the band's administration building, while patients requiring a doctor's immediate attention are transported back and forth to Fort McMurray as required. A doctor visits the clinic once a month while a physiotherapist comes twice a week.

The community also tries to make life comfortable for elders. In addition to free rent as mentioned above, there is an attractive seniors' centre offering various kinds of programs. Construction of a seniors' residential-care centre for up to 18 residents is almost complete, which will require hiring of additional staff. FMFN funds all necessary staff training. This centre, along with rent-free housing for elders, are instructive examples of how the revenue generated by success in the business world can be channeled in support of a traditional cultural value such as the veneration of elders.

The new seniors' care centre is also an example of providing collective benefits through construction of buildings and other infrastructure, funded mainly by industry grants. Completed projects include a water treatment facility, youth centre, hockey rink, seniors' drop-in centre, and outdoor events venue. Industry grants are different in nature from other business revenue; as part of impact-benefit agreements, they are usually tied to specific projects and have a limited life span. Using these grants to construct infrastructure converts temporary cash flow into long-term assets that contribute to community well-being in a collective way, complementing the individual housing, health, and educational benefits paid for by the FMFN budget.

There is a massive need for labour in the oil sands, so companies fly in workers from all over Canada or even other countries, but FMFN will also find a job in its enterprises for any member who needs work. There is a low level of unemployment in the community caused by people who are changing jobs or who do not really want or need to work; but the situation is far removed from many First Nations where unemployment is chronic and the band government is almost the only employer.

Cash payments to all members, known as business profit distributions, began in 2002, according to Chief Boucher's recollection, as FMFN business enterprises

began to take off. In the current year (2017/18), quarterly distributions will add up to an annual total of about $3,000 per person, paid to all members on or off reserve (parents may elect to deposit their children's shares in a special account). Table 4 shows the gross amount of payments over the last five fiscal years.

The amounts are calculated by a formula based on business profits and are discussed with the community. Some may question whether a government should hand out money this way, but this is community capitalism, in which FMFN as a whole owns all enterprises. From that viewpoint, the distributions resemble the dividends received by owners of corporations in the Canadian economy. They also give members a tangible stake in the business success of FMFN, thus helping to solidify the political basis of community capitalism. The annual amounts were much larger at the beginning of this five-year period, decreased through 2016, then started to recover. These changes seem to reflect a balance of caution over the business cycle against internal political pressures; Chief Boucher's opponent in the 2011 and 2015 elections promised larger disbursements.

Table 4: Business profit distributions of the Fort McKay First Nation, fiscal 2012/13–2016/17

	Gross amount ($ millions)	Estimated per capita annual ($)
2012/13	12.4	14,300
2013/14	7.7	8,900
2014/15	4.8	5,500
2015/16	1.1	1,300
2016/17	2.0	2,300

Note: The estimated annual payment is calculated by dividing the total by 868, which is the number of Registered Indians in FMFN reported in the 2011 Household Survey.

Source: Compiled by the author from FMFN annual filings under the First Nations Financial Transparency Act, <http://fnp-ppn.aandc-aadnc.gc.ca/fnp/Main/Search/FederalFundingNote.aspx?BAND_NUMBER=467&lang=eng>.

Ownership and Governance in the Fort McKay First Nation

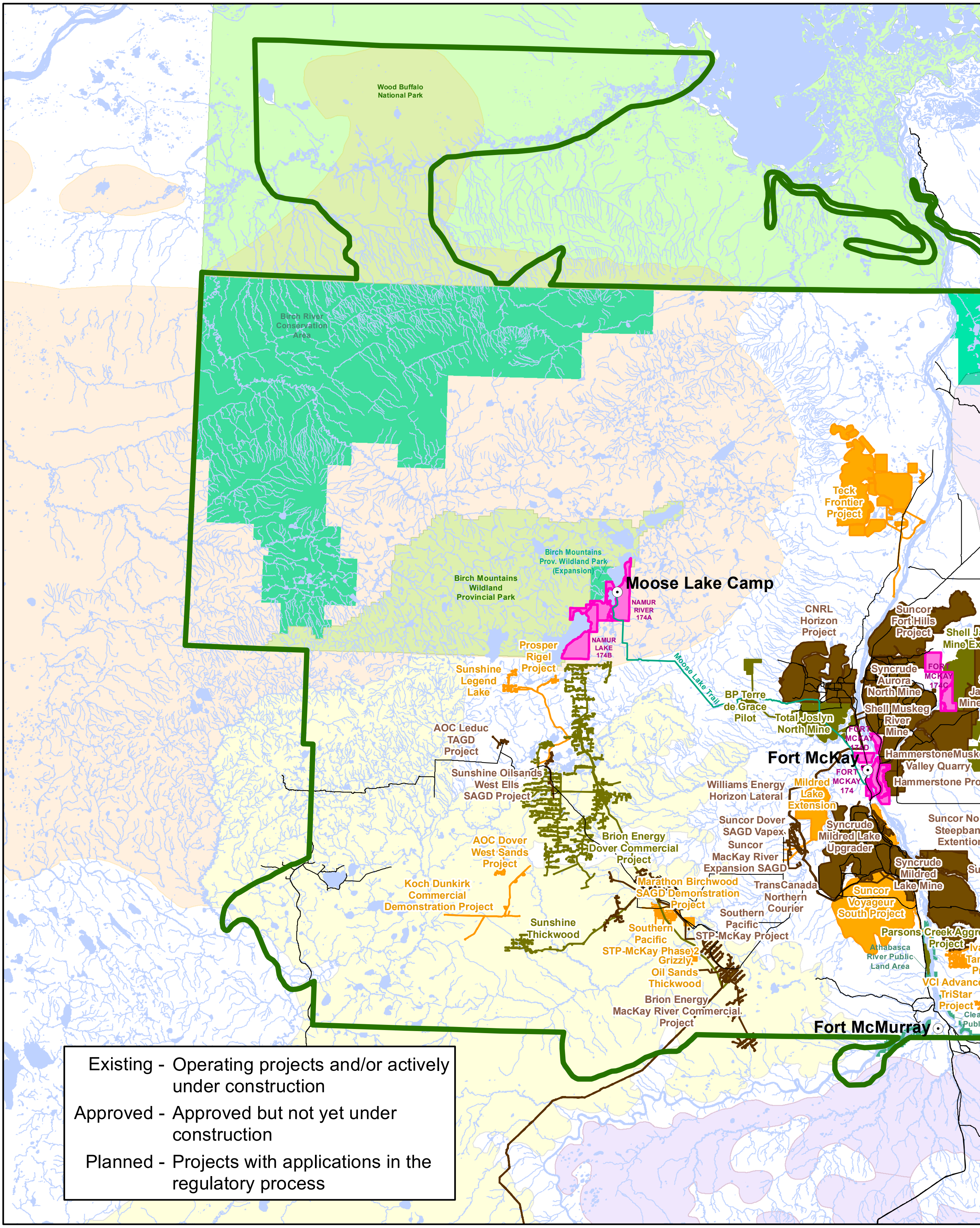
Community capitalism as practiced by the Fort McKay First Nation is a blend of private and public-sector institutions and practices. The Crown is the legal owner of FMFN's land reserves and subsurface resources, which the FMFN's elected government manages within the constraints of the *Indian Act*. FMFN is the sole owner of FMGOC and of the Fort McKay Landing holding company that owns FMFN's shares of joint ventures. The owners comprise all the current members of FMFN, including both those who live on reserve and those who reside elsewhere. One becomes an owner by acquiring membership in FMFN, either by birth or by acceptance under the band's membership rules.

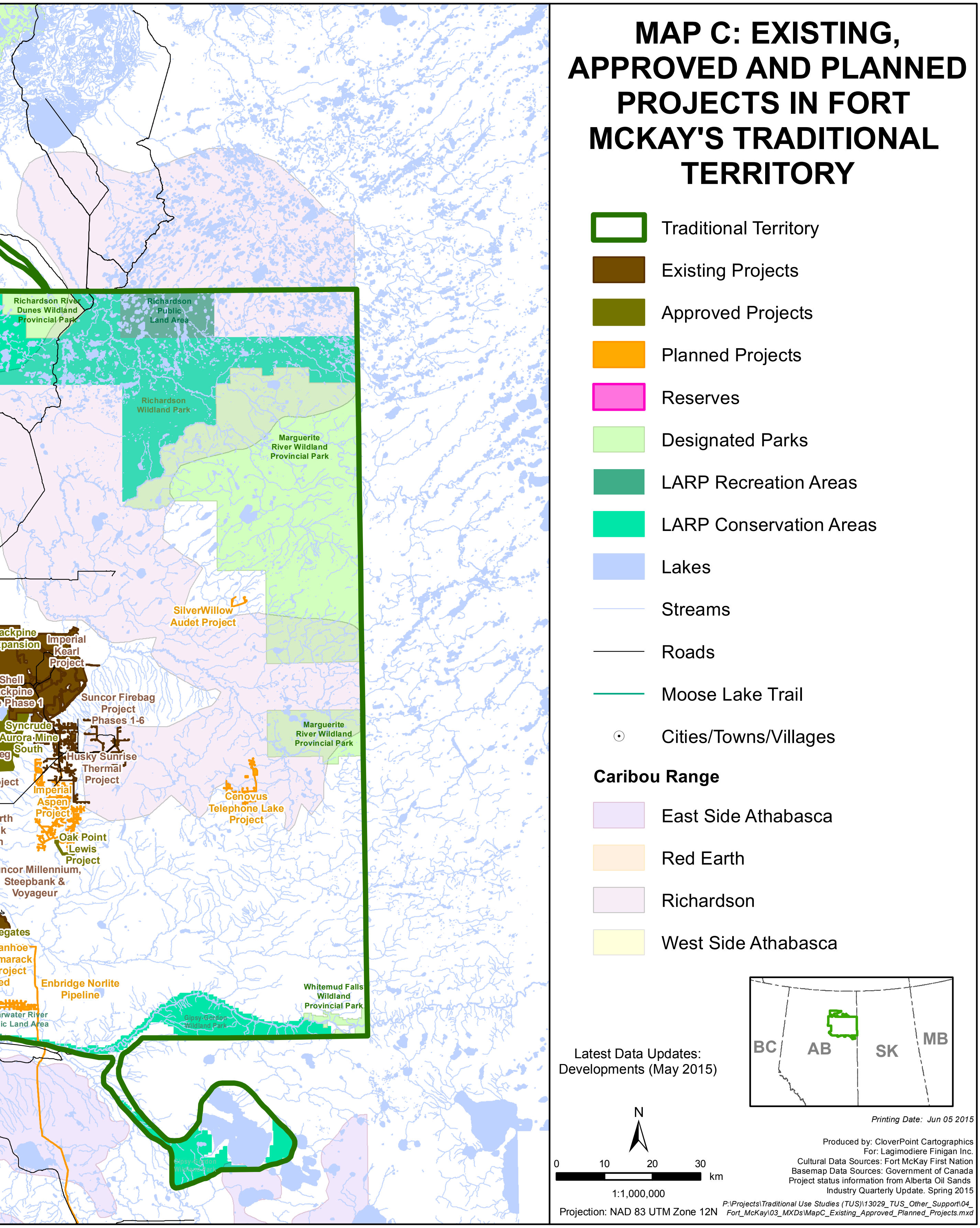
FMFN is a valuable entity. In addition to all the businesses it owns in whole or in part, it has about $145 million in financial assets, $115 million in non-financial assets, and perhaps 2.5 billion barrels of bitumen beneath the land it received in its treaty entitlement claim (legally owned by the Crown), which could be worth over a billion dollars if they are ever fully developed. The members of FMFN are in some sense the owners of all assets, but they do not own equity shares that can be sold, gifted, or left to heirs. The only way these owners can derive material benefits from their ownership is for FMFN to transfer money to them; provide services such as housing, education, and health care; or build facilities for common enjoyment.

The *Indian Act* prescribes referendum decision-making for certain important questions regarding the control of land, but the normal way for the owners to affect the conduct of FMFN business is through the governing mechanism of Chief and Council, which the adult members can influence by voting in elections or participating in consultative meetings. Elections now take place every four years, after the adoption of custom government rules in 2004, and both on- and off-reserve members are able to vote. Consultative meetings take place frequently, both on and off reserve. Sometimes they are held just with elders, sometimes all members are invited to attend. And, of course, in such a small community, there are many opportunities for informal consultation.

FMFN tries in some measure to separate business from politics. The board of directors of Fort McKay Landing, the holding company that owns the Nation's share in joint ventures, consists of the FMFN Chief and two senior staffers. This is a less political arrangement than prevails in some other First Nations, where

To view whole map, click here.





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business ventures are directly controlled by Chief and Council. The joint ventures are all operated by the minority partners, who have normal profit-making incentives. Each joint venture has its own board of directors which decides how much profit can be returned to the holding company and how much should be retained for reinvestment.

FMGOC has a board of directors and professional management team. The board of directors of the Fort McKay Group of Companies is appointed by the Chief and Council of FMFN. The Chief of FMFN chairs the board of directors, and other councillors also sometimes serve; the Chief may also invite others to attend board meetings at his discretion. However, there is normally a majority of independent members, that is, not officers or staff of FMFN. At the moment, the board is being reformulated and the Chief is the only active member while a search is conducted for new members.

The existence of these boards serves to insulate FMFN business operations from the day-to-day politics of the Nation. However, much depends on the willingness of Chief and Council, and ultimately of the members, to let business function independently. Chief and Council are responsible for appointment of the boards and approval of the direction they take; it could hardly be otherwise, since FMFN is the owner, and Chief and Council have legal responsibility to make decisions for FMFN. The separation of business and politics could change if the mood of the Nation changed, resulting in election of Chief and Council with different views. To put it another way, the prosperity of FMFN has been created by following rational strategies of investment and business operation, but the ability to follow those strategies depends upon FMFN politics. It is, to use the nineteenth-century phrase, a "political economy."

The Chief and Councillors are compensated like the president and vice-presidents of a fair-sized corporation, which in some respects they are. In 2014, FMFN adopted a written policy that limits the salaries of Chief and Council to no more than 3% of revenues, excluding capital-related grants, so salaries may fluctuate in accord with economic conditions. In fiscal 2016/17, Chief Jim Boucher received a salary of $632,785, while two councillors received $466,275 and the other two, $326,393. This is at the very high end of compensation for First Nation elected officials in Canada, even compared to others with sizable business activities (Flanagan and Johnson, 2015). FMFN explains this level of payment by pointing out that Chief and Council carry out business executive functions, the figures are disclosed to the membership, and the money comes from business earnings, not government grants (Geddes, 2014).

There are also some other factors to consider. Earnings are high in the oil sands, so that young tradespeople can pull down six-figure wages. Also, executives in publicly traded corporations often take part of their compensation in

stock-option plans, but this is impossible in FMFN, given the legal structure of community capitalism. If the Chief and Councillors of FMFN are to be well compensated, it must be through salary. The salaries come from the business earnings of FMFN, and the members could bring about change by electing different leaders, if they were so inclined.

Under Chief and Council, there is a large administrative structure, required because, in addition to the typical functions of local government, FMFN is engaged in business development; runs housing, education, and health care for the community; and has complex relationships with surrounding businesses in regard to the use of traditional territory (sustainability). Some of the senior staff are First Nations people, though not necessarily from FMFN; others are Canadians of various backgrounds. Some staff commute from Fort McMurray, or even Edmonton or Calgary, in the case of higher-level appointments. The main administrative building is beautifully designed and finished, perhaps calculated to make a good impression on visitors from the many business and other governments with whom FMFN has dealings. Considering the large staff, travel costs, and physical facilities, band governance and administration are expensive operations for FMFN.

Challenges of Community Capitalism

Although it does not produce any oil, the Fort McKay First Nation bears some resemblance to a miniature petrostate, because its economy is almost entirely dependent on the oil industry in general, and nearby oil-sands developments in particular. Like all petrostates, FMFN must deal with the notorious volatility of oil prices. Most recently, the oil price collapse that began in 2015 led to a decline in FMFN's income from $60.3 million in that year to $37.7 million in 2016, a decrease of 37.5% in one year.

In response, FMFN has moved its business strategy toward producing income stability. One major step in that direction is the purchase of a 34.3% equity share in Suncor's East Tank Farm Development (Suncor, 2017). The tank farm will be an integral part of the pipeline system used to carry oil-sands products to market. Suncor will operate it while FMFN and the Mikisew Cree First Nation will be passive partners, together owning 49% of the tank farm. The purchase is financed by senior secured notes paying 4.136% interest and marketed by RBC Capital Markets; the initial offering was quickly oversubscribed. Security for the bonds is provided not by FMFN's other business assets but by the bitumen that three major producers are contractually obliged to provide for the next 25 years. No additional loan guarantees were required. FMFN will borrow about $350 million to obtain its 34.3% ownership share of the project. FMFN's calculation is that, after paying interest on its bond, its equity share will yield a predictable income for decades, based on the tolls charged to producers for storing bitumen. It is an income-producing rather than a growth investment, designed to yield more stability in annual revenues.

FMFN has also hired more staff in its business development arm and is thinking about broadening its business strategy. In the past, the Nation has invested almost exclusively in oil-sands enterprises, taking advantage of its dense network of business and social connections in the area. The strategy was highly profitable for almost two decades while the oil sands were experiencing explosive growth; but now that international investors are leaving the oil sands and growth prospects are diminished, it may be time to start investing elsewhere as protection against further decline. FMFN now has enough income and accumulated wealth that it can afford to incorporate hedging and balancing in its overall business model.

FMFN also shares another problem with democratic petrostates that have used oil revenues to enhance public services and improve the lives of their citizens. New schools, clinics, community centres, and seniors' residences are not just capital expenses that can be defrayed from industry grants; they also create ongoing operating expenses for staffing and maintenance—bills that can be difficult to pay when oil prices fall. FMFN has created a generous regime for members, including subsidized rent for high-quality homes, a well-staffed health department, support for all levels of education, quarterly business profit dividends for all members, and various other enhanced services. Such programs are expensive to provide and may become more expensive the longer they exist, as expectations rise. FMFN, like larger democratic welfare states, will face continual demands for more and better services.

At present, relatively stable income from rent, property taxes, and trust-fund interest pays for only a portion of these services, with the rest being financed from business profits. The Suncor East Tank Farm deal is intended to provide a further source of stable funding. The FMFN leadership is aware of the need for stability and is working to achieve it, but petrostates are particularly prone to expand public services in boom times and then face fiscal pressures in the down part of the cycle. It takes prudent management to keep from tipping into chronic deficit spending, as has unfortunately happened to the province of Alberta (Lafleur, Palacios, Eisen, and Lammam, 2015). Thus far, FMFN's leadership has met the test of prudent management, protecting cash reserves and trust funds and returning quickly into the black after occasional deficits, such as that of 2016. But like all democracies, FMFN is always only one election away from higher levels of spending. Chief Jim Boucher was re-elected by just one vote in 2011, when his opponent called for greatly enhanced cash distributions to members.

There is no simple and permanent solution to this problem. In spite of attempts to separate business and politics by appointing independent boards of directors for business enterprises, all of FMFN's activities are ultimately responsible to Chief and Council, who approve major investments and decide how much to allocate each year to public services instead of reinvestment in business enterprises. A change in political orientation could have important repercussions. This is a special problem for small political systems, which lack the stabilizing effect of a large permanent civil service.

Leadership is crucial, and Chief Jim Boucher has provided stable leadership and vision since 1986. But all leaders eventually retire even if they remain undefeated in electoral competition. Thus, FMFN's model of consensus government is an important part of its success. It means not only obtaining agreement of all members of council for important initiatives, but also holding frequent

consultative meetings with members (both on and off reserve) while fully disclosing information such as annual audited financial statements and compensation of Chief and Councillors. Such public discussion and deliberation can help to build understanding of the need for prudent management. If the model of consensus government continues to function well, it may help to support the type of leadership necessary to ride out the unpredictable ups and downs of the international oil economy.

Conclusion

The Fort McKay First Nation's remarkable success in generating OSR and sharing the benefits throughout the community certainly deserves attention from other First Nations as well as government policy makers. However, two factors mean that other First Nations will find it difficult to replicate FMFN's success on the same scale. First, FMFN is located in the middle of one of the largest industrial developments on the planet. It is surrounded on all sides by corporations willing to purchase the services it provides and also willing to negotiate agreements for development of oil-rich traditional territory. Indeed, some of these corporations have put unusual effort into promoting Aboriginal economic development. Second, FMFN has a relatively small population, with only 868 Registered Indian members according to the 2011 National Household Survey. Benefits of housing, education, health services, and cash payments can be concentrated upon members in a way that would not be possible for a larger population. Because of these two factors, everything is an order of magnitude greater in FMFN than would be possible in most other First Nations—business revenues, band budgets, and individual benefits for elected officials, employees, and members.

In spite of this caveat, there are still many useful and widely applicable lessons to be drawn from FMFN's experience. Some of these have already been noted in earlier publications: running a balanced budget and staying out of debt; taking advantage of local economic opportunities; supporting stable, long-term leadership; making use of off ramps from the *Indian Act*, such as creating a property tax system (Flanagan, 2016; Flanagan and Harding, 2016) and experimenting with long-term leases to promote home ownership. FMFN is much like other successful First Nations in these respects, although it offers higher levels of compensation for elected officials.

A factor that I have overlooked in previous research is the business environment created by government policy. The absence of taxation on Indian reserves as provided for in the *Indian Act* has some negative aspects to which other authors and I have drawn attention (Graham and Bruhn, 2008: Flanagan, 2000: 105–107), but it can also help turn reserves into high-growth enterprise zones. A business-minded First Nation can take the millions of dollars that might otherwise be paid in corporate income tax and use them for reinvestment, leading to more rapid growth. Another potentially positive factor is the duty to consult and accommodate created by the Supreme Court of Canada (Mikisew Cree First Nation *v. Canada*, 2005). Although this has generated new uncertainty and expenses for

project proponents (Flanagan, 2015), it has also greatly enhanced the leverage of First Nations in negotiating impact and benefit agreements. FMFN has shown that the benefits can be used to enhance community well-being. Also worthy of note is Canada's specific claims policy, which allows First Nations to pursue grievances related to non-fulfilment of treaty obligations. FMFN used this to obtain, in addition to 20,000 acres of land and subsurface resources, a cash settlement of $41.5 million, which they converted into a trust fund to yield a stable annual income of about $5 million.

A couple of other features are more specific to the FMFN experience. One is the ability to balance conflict and reconciliation. FMFN has never been shy about defending its interests. It staged a blockade against lumber trucks in 1983, it launched a treaty-entitlement specific land claim in 1987, and it has been involved in negotiations and litigation for years to protect its remaining natural area around Moose Lake. Yet the assertive actions have not impaired its ability to reach compromise through negotiation and to maintain friendly business relationships with surrounding corporations. FMFN's history makes an instructive contrast with that of the Lubicon Lake Nation, which for decades fought against the oil and forestry industries, as well as the governments of Alberta and Canada, without ever reaching productive settlements (Flanagan, 2014).

Another is the ability to learn from experience and take a long view of what needs to be done. FMFN started its business ventures on a small scale in 1986 and gradually grew by venturing into other branches of services to companies developing the oil sands. Then it took advantage of the oil-sands boom in the first 15 years of this century to grow its businesses to unprecedented size. But when the price of oil collapsed in 2015, leading to a spate of red ink, FMFN quickly got its deficit under control by cutting back discretionary items such as the distribution of business profits, and it is now embarking on diversification of investments as a hedge against uncertainty. A comparison with the province of Alberta is flattering to FMFN, which has been more agile than the Alberta government in responding to changing conditions.

Community capitalism, based on consensus government and ongoing political support from members, is a promising model for promoting the independence and improving the standard of living of Canada's First Nations. FMFN's dramatic results are to some extent dependent on its relatively small population and the opportunities afforded by its location in the heart of the oil sands, but opportunities have to be seized in order to become beneficial. FMFN's ability to make use of its opportunities depends on the form of governance described in this paper. Other First Nations, no matter their size and location, may benefit from studying the principles of FMFN's political and economic success and adapting them to their own unique situation.

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