

MACKENZIE COUNTY
ORGANIZATIONAL COUNCIL MEETING

Wednesday, October 24, 2007
10:00 a.m.

Council Chambers, Fort Vermilion, Alberta

AGENDA

Page

CALL TO ORDER:

1. a) Call to Order (by William Kostiw)
- b) CAO Overview

AGENDA:

2. a) Adoption of Agenda

b) Voting Procedure (Secret ballot)

ELECTION OF
REEVE & DEPUTY
REEVE:

4. a) Election of Reeve 79
- b) Election of Deputy Reeve 81

c) Oath of Office of All Council
(performed by Barry Sjolie, Sgt. Ryan Becker,
Sgt. Shane Ramteemal)

TURNOVER OF
CHAIR

5. a) Turnover of Chair to the Reeve

DELEGATION:

3. a) Barry Sjolie, Brownlee LLP (11:00 a.m.) 5
Roles & Responsibilities

COUNCIL
COMMITTEES &
TASK FORCES:

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Committees, Boards and Task Forces
- b) Appointment of Members at Large to County 91
Boards/Committees
- c) FCSS (Structure) 111

APPOINT
REPRESENTATIVES:

7. a) Appointment of Council Representatives to Other 113
Committees
- b)

Voting Procedure

3.b) RCMP Report

BYLAWS/POLICIES:	8.	a)	Bylaw 650/07 Honorariums & Expenses	117
		b)	Bylaw 529/05 – Organizational Bylaw	123
		c)		
OTHER BUSINESS:	9.	a)	Establish Council Meeting Dates	133
		b)		
ADJOURNMENT:	10.	a)	Adjournment	

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926-1583 cell.

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		c) Oath of Office	
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CAO PRESENTATION TO COUNCIL
ORGANIZATIONAL MEETING
October 24, 2007

It is my pleasure to welcome all of you "new and old" to the Mackenzie County organizational meeting for the year 2007.

The ratepayers and citizens of Mackenzie County have chosen you to represent them for the next three years and this is both a great privilege and tremendous responsibility. As elected officials you will face many challenges which will require negotiation, good judgment, and a decision that is acceptable to Mackenzie County as a whole. These decisions require strategic thinking, collaborative planning and effective influential leadership.

Generally speaking you are entrusted by the electorate to create policy and interpret government legislation in the best interest of all citizens. In my opinion, you are elected to represent both your ward constituents and the municipality as a whole which requires great skill and long term thinking.

Council's governance strategy must be fair, equitable, and based on grass roots input as well as meeting all the legislative requirements.

The keys to good, effective municipal government are "team work" and honest, open dialogue in the board room. I truly believe, and it's been demonstrated many times, that everyone can win if we work together. All areas of the County can achieve projects and community success. This success does not need to be at the expense or demise of other wards or communities, but success for all areas requires good planning and successful team work.

In theory or the MGA, it's indicated that Council has one employee – the CAO; however, in practice and for effective action it takes a combination team effort of Council, staff and the public. The County needs to re-establish good inter-municipal relations so we can collectively lobby the senior governments for our "fair share" of funding.

In summary, I and all of the County staff look forward to working with and for Council as the new Mackenzie County team. This team effort will truly create a win-win situation. Thank you and good governance.

William Kostiw
CAO

Keys To Good Governance III: BE A VALUES-BASED ORGANIZATION

C. Richard Tindal and Susan Nobes Tindal

Since the *In Search of Excellence* writings of a quarter century ago,¹ we know that successful organizations exhibit a strong adherence to core values. Values are no less important for municipal governments (indeed, all governments). But, these values need to be articulated, so that everyone in a municipality understands its values foundation. The values need to be understood, so that we

flucting or contradictory values. The fact that prevailing values change over time increases the possibility of these conflicts and contradictions. For example, in the past couple of decades, it has almost become fashionable for municipalities to declare their commitment to operating in a more business-like fashion, and to proclaim that they are now entrepreneurial and customer-focused. In

It is important to spell out and appreciate the implications of the values that supposedly animate your organization, and to ensure that you are not embracing conflicting or contradictory values.

can be sure that they are compatible, and not in conflict. The values need to be institutionalized, so that they become more than a statement of platitudes, and are integrated into the way the municipality operates and the decisions that it makes.

Keeping Values In Balance

It is important to spell out and appreciate the implications of the values that supposedly animate your organization, and to ensure that you are not embracing con-

so doing, they are embracing the central tenets of the new public management (NPM) movement that has reformed government processes in a number of countries including Britain, Australia, New Zealand, and – to a lesser extent – the United States and Canada.

But, being business-like is usually equated with reducing “politicking” and making decisions in a more expeditious manner. Proponents of this approach often argue for abolition of the ward system and a reduction in the size of council, to create a smaller, more cohesive body that can operate more like a board of directors. Yet, traditional municipal values such as openness, representativeness and accountability are not easily reconciled with this business emphasis. Osborne and Gaebler question whether we would really want our governments to

C. Richard Tindal, Ph.D and Susan Nobes Tindal, M.Ed, LL.B., are Principals in Tindal Consulting Limited, Local Government and Management Consulting, with projects including organizational reviews, restructuring studies, strategic planning exercises, development of training manuals, and presentation of seminars and workshops. They are co-authors of the new book *Guide to Good Municipal Governance*, published by Municipal World.

¹ Thomas J. Peters and Robert H. Waterman, Jr, *In Search of Excellence*, New York, Warner Books, 1982.

POLITICIANS AND PLANNERS

Ismail Shehada

In a democratic country, the relationship between politicians and planners in the planning process is an important one. Planning is a critical process that draws the path of the community's future on the following levels:

- ▶ defining the shape of land use and development (physical planning); and
- ▶ shaping both the local economy and economic development (economic planning).

Politicians are, of course, elected by their community to pursue a better future. To do this, politicians make policies and review policy implementation.

Planners, on the other hand, prepare the plans (physical or economic) based on the policies set by the politicians, and then implement those plans.

Who Has Power?

Officially, politicians have the "last word," because they set the policies and review their implementation. Officially, planners must obey the policies identified by the politicians, and implement able plans.

Practically, however, politicians are not specialists in planning and hire planners to draw the outline of their plans, and review them when needed. Practically, planners prepare the plans, implement the plans and review them. And, while politicians are normally elected for a specific period of time (3-4 years) and may not be elected in the next election, planners may remain with the municipality for up to 20 years or more.

Thus, although the role of politicians is important, the role of planners is equally important, as is the relationship between the two. What can be more important than drawing the future shape, heights and locations etc. of our urbanized

areas (shape and land use; residential, industrial, commercial and agricultural use etc.) and the economy?

One famous example of this critical relationship is the Baron Haussman



Ismail Abu Shehada holds a bachelor degree in civil engineering, and Masters degree in urban and regional planning.

story. Baron Haussman (March 27, 1809 – January 11, 1891) was a French civic planner whose name is associated with the building of Paris. He was commissioned by Napoleon III to initiate a program of planning reforms in the city. Even though he destroyed many old buildings, he planned the city in a way that made it quite distinguished from other world cities using the "triangle plan." People know and remember *Haussman* as the builder of the new Paris, and not *Napoleon III*. It is interesting that Haussman himself later became a politician.

Role of the Public

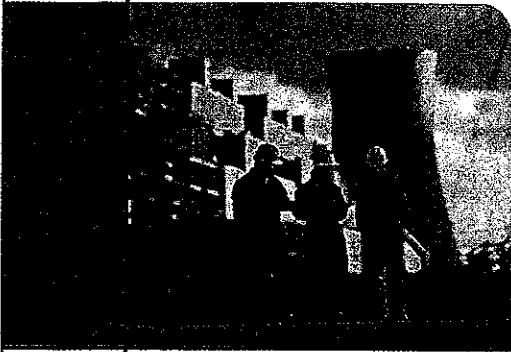
According to planning legislation in democratic countries, public participation in the planning process is a must. Community representatives should be invited to special hearings during the planning process to express their views regarding proposals. In practice, however, public participation is usually very limited – especially in long-term complicated plans. Perhaps more public participation would occur if discussion was limited to local effects, rather than long term plans. People *feel* the short-term impacts of small scale plans – such as the installation of a new traffic signal. Although long-term planning affects people's quality of life in significant ways, few people will pay attention because they can't feel the immediate impact. As an example, a 20-year transportation master plan will have a much greater impact on the public than any short-term plan, but will likely draw less interest from the public.

The above discussion raises a lot of questions that need to be addressed, including:

- ▶ Should politicians rethink and better understand their role in the planning process?
- ▶ Should planners rethink and better understand their role in the planning process?
- ▶ Do we have to rethink and build a better model of the planning process?

This article is an attempt to "throw a stone in the pool," and open the ground for important debate – not only about the relationship between politicians and planners, but also about the planning process in general. In my opinion, a more effective means of public participation should be considered to guarantee public awareness at the right time. MW

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1. Be respectful and courteous to fellow councillors and staff, whether it is in council meetings or other public forums.
2. Appreciate and understand that people have different styles and approaches – focus on the content, not the delivery.
3. Give the “benefit of the doubt” to your fellow councillors as they try to represent the best interests of both their constituents and the municipality.
4. Listen first, and then respond.
5. Do not make assumptions about future council behaviour based on the decisions and behaviours of previous councils.
6. Act and make decisions based on the good of the community as a whole, while recognizing and respecting local needs and requirements.
7. Use council time and staff time effectively – focus on making decisions and taking action.
8. Once a decision is made, councillors should “leave the baggage behind” and move on, which includes publicly supporting the decision, even though it may not have been their preferred action.
9. Use time outside formal council meetings to foster understanding and better communications, which includes dealing directly with your fellow councillors regarding any issues or concerns.
10. Respect the “chain of command” within the administration.

These comments are not intended to be critical of municipal councils. Indeed, they are intended to acknowledge their importance as leaders who play a critical role in the overall success of a community. Each one of us is affected by the decisions and actions of our local council. If we continue this dialogue around the effective functioning of municipal councils, I am convinced that we will create higher performing municipalities. MW

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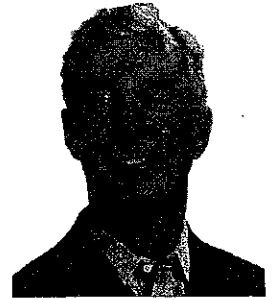
New provincial ministers speak on the oilsands industry and the environment



Mel Knight



Rob Renner



Ted Morton

When Alberta's new cabinet was sworn in Dec. 15, 2006, Mel Knight, Rob Renner, and Ted Morton respectively took the reins at Energy, Environment, and Sustainable Resource Development. The appointments come at a time when oilsands development is facing increasingly public scrutiny—particularly in terms of environmental sustainability.

The challenges Knight, Renner, and Morton must grapple with were expressed in a presentation given to the recent Oil Sands Multi-stakeholder Committee by Robert Mansell, managing director of the Institute for Sustainable Energy, Environment, and Economy at the University of Calgary.

"In our energy resource development decisions, it is critical that we have a clear vision of the ultimate goals," he explained, adding that society must be aware of the "curse of natural resources," which observes that in much of the world, natural resource-rich regions have tended to be poorer than those regions with few natural resources. "In many instances, the resource rents become dissipated and lost through inefficient and over-exploitation. Or, the population becomes addicted to the resource rents, and the focus [becomes] how to distribute and consume the rents rather than how to invest the resource rents."

Mansell told the committee, which is charged with generating recommendations for a vision for oilsands development, that another element facing decision makers is "Dutch disease," where rapid growth associated with resource booms creates dislocations in the region's economy. For example, he says a booming energy sector drives up costs that cannot be absorbed in other sectors of the economy, with the result that the economy becomes overly specialized

and dependent on a relatively unstable primary sector:

"It will be important to remain vigilant," Mansell said.

In light of the environmental challenges facing the growing oilsands industry, and these key new government appointments, the *Oilsands Review* recently asked Knight, Renner and Morton for their thoughts.

Mel Knight—MLA, Grande Prairie-Smoky—Minister of Energy

Mel Knight has every confidence the oilsands sector will govern itself responsibly, in terms of both pace of development and protecting the environment.

"We're not that crazy that we would be out there destroying an environment my 10 grandchildren have to live in. I'm keenly interested in what we do," he told the *Oilsands Review*. "Industry is well aware of the commitments, the environmental concerns, and responsibilities. [The government] wouldn't approve any energy project until we're satisfied the environmental concerns are addressed. Both the government and the energy industry are very committed to sustained development of the oilsands and the energy industry over all, not just carbon based. We're much more attuned to renewables [than in the past]."

As he works on developing a comprehensive energy strategy for the province, Knight says the real need is to communicate the sector's good news stories, such as dramatic reductions in emissions of air pollutants, as well as fresh water use.

"In 40 years, we've made some tremendous advances and we're not

stopping. We have opportunities to go back into depleted fields and get more of a known hydrocarbon source."

A certified journeyman instrument mechanic, Knight worked in the oil patch for years, has farmed, maintains an involvement in commercial real estate, and has served as a ward representative in the municipal district of Greenview.

Rob Renner—MLA, Medicine Hat—Minister of the Environment

Rob Renner is calling for public consultations on air quality and the cumulative impacts of oilsands development. Much like when the province began the Water for Life policy, "we're going to have to start thinking of air," he says.

"We need to get our collective heads around how much [environmental impact] is enough, and what kind of plans can we put in place on where we stand collectively. It may be some of the onus on controlling emissions, for example, will fall on consumers rather than the industrial developer." Government cannot be expected to address macro issues if individuals don't address micro issues, he says.

"I think the discussion we're having [about the importance of protecting the environment] is inevitable, and if we look at it as an opportunity rather than in some way becoming defensive and protecting [against] development in Alberta at all costs, we have the potential to have the best of both worlds. Public priority gives us the social license to deal with industry. I think people are beginning to realize that if we're going to have success, we can't concentrate

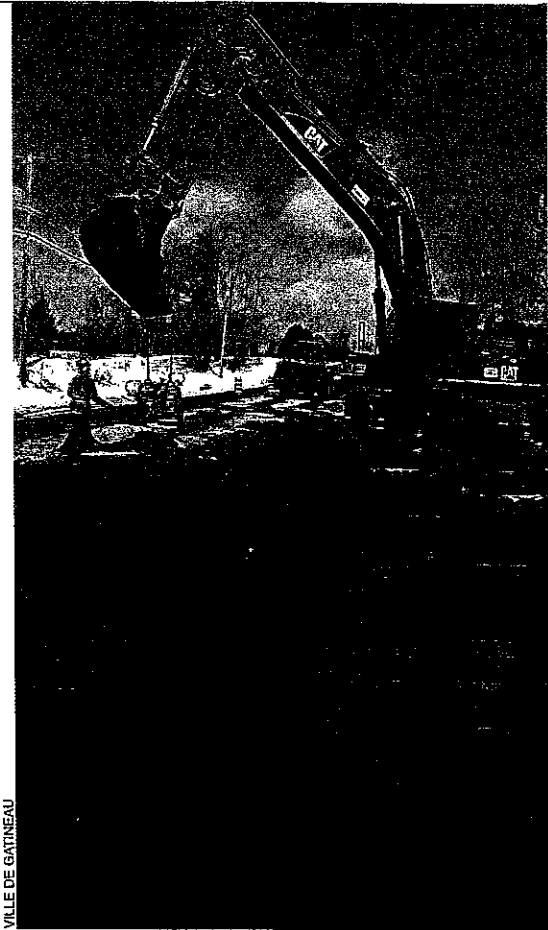
That's the question that faced Ann MacLean, mayor of New Glasgow, N.S., and her council in April, and it's a problem that confronts mayors and councils across the country.

THEN THERE ARE STREETS AND ROADS. With a population of some 10,000 people, New Glasgow is a regional commercial service centre, and its streets and roads take a pounding. On a typical day, some 30,000 vehicles travel through the town.

"Property taxes alone cannot address these needs," says MacLean. "We need a long-term commitment to infrastructure funding. All three orders of government need to recognize the role infrastructure plays in our communities."

Municipal politicians know well the importance of infrastructure, and how hard it is to fund the necessary repairs, upgrades and replacements: Studies have shown that the country's rural and urban communities are wrestling with a \$60-billion infrastructure deficit, which has been growing annually for years. >

Municipal workers install a storm runoff system in the City of Gatineau.

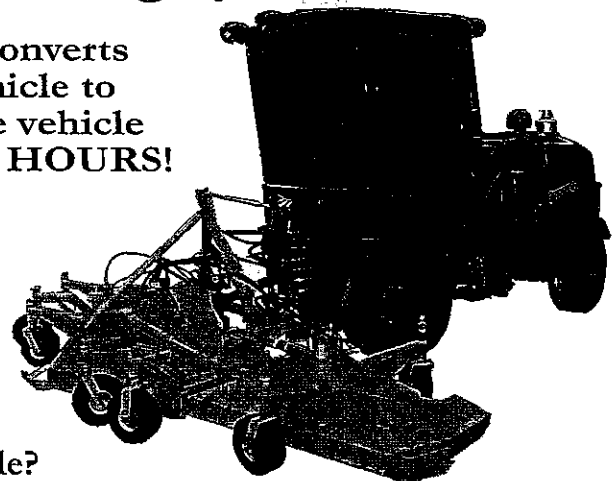
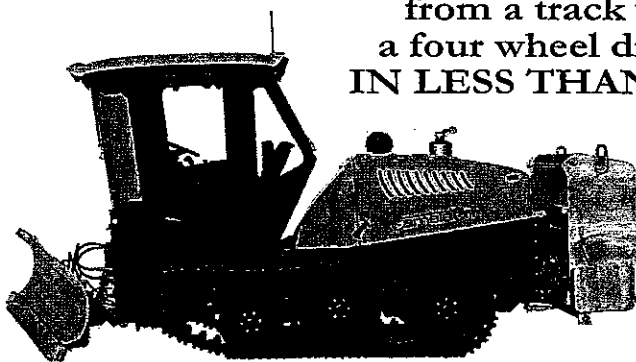


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Acting with courage – Effective leaders create a high performance work environment – one of courage, empowerment and appreciation. They do this by:

- ▶ acting with personal integrity;
- ▶ expressing themselves openly and honestly;
- ▶ challenging prevailing organizational wisdom;
- ▶ taking informed risks;
- ▶ always expecting the best of others; and
- ▶ celebrating success.

More specifically, effective leaders *create trust* in all of their dealings with others by acting in a straightforward and timely fashion. They are willing to put the *good of the organization* ahead of specific subgroup interests, even at their own risk. They demonstrate *commitment, tenacity, and resourcefulness* in pursuing corporate objectives, which includes taking risk, as well as personal *responsibility* for mistakes. And, in doing all of this, they *help others* act with courage.

Assessing the Performance of Municipal Councils

Having defined a model of effective leadership, how well do councils compare? To answer this question, let's first consider the various roles of a municipal council and then

compare their performance in these roles to the key elements of leadership as defined by the model.

A council has a number of roles – setting the vision, direction and priorities of a community; establishing policies, procedures and management systems to govern the behaviour of the organization; determining the services and service levels to be provided to the community; and monitoring and evaluating performance against agreed upon targets, and then taking action to address any performance issues or gaps.

At a high level, it would appear that the various roles of a municipal council would encompass some, if not all, of the key dimensions of leadership as defined by the model. We can also observe that councils, as a whole, are generally performing well within this context. However, more detailed analysis would suggest that there might be some areas where the performance of councils could be improved.

Setting Direction

Most municipal councils have set a direction for their municipality. Typically, they have developed a strategic plan that defines the vision, goals, objectives and priorities for the community and the organization. It is usually developed through the combined efforts of council and administration working with the public and staff. It tends to be a very open

inforced by appropriate rewards and sanctions. As much as possible, the emphasis should be on rewarding appropriate conduct rather than penalizing lapses.


Values should also be reflected in the decisions made by the municipality, along with the technical advice from staff and the political perspective of council members. In Red Deer, Alberta, for example, employees at all levels in the organization are encouraged to make decisions based on the cornerstone principles of RISE (respect, integrity, service and excellence).⁶ The objective is to promote decision making based on principles and values, rather than policy and procedure, especially since the

complexity of many issues means that there are not policies for every situation. When this problem arises in Red Deer, employees turn to their values and guiding principles, rather than scrambling to develop policy. It is appreciated that significant actions taken by staff should be based on a policy foundation, and some may argue that guiding principles are no substitute for formal policy decisions by council. On the other hand, we have all seen the unfortunate results of the mindless application of policy (because it exists), without sufficient sensitivity to the impact and consequences of such policy.

Ethical Values and Behaviour

Ethical behaviour is arguably the value receiving the greatest attention today, largely because of the various scandals briefly alluded to above. Demonstrating that organizations operate on an ethical basis is essential to counteract growing public cynicism. In our view, however, efforts are too heavily concentrated on a rules-based regime as the appropriate response. As we will argue in the final article in this series, we also need an organization with a strong ethical culture, and with members who have a highly developed moral compass. MW

⁶ One of the more than 300 examples of municipal best practices found at Alberta's Municipal Excellence Network, at <www.menet.ab.ca>.



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Competing for capital

complete isolation - every business unit or project has an influence on the others. Ignoring these interactions and dependencies can lead to double counting of benefits, and increases the potential for conflicts that can stop an organization dead in its tracks.

Projects must be considered in the context of the company's overall strategy, and which value drivers they are expected to affect. With this knowledge, individual investments can be grouped into logical categories and rationalized in a portfolio. This structured approach reduces conflict.

Question

Do you know if your projects are achieving their intended results?

UB

Hold people accountable

Many companies have elaborate processes for funding investments, but don't bother following up to see if the expected results were actually achieved. To maximize returns, you must actively and consistently manage every investment throughout its entire lifecycle — holding business units and project teams accountable for delivering on their promises.

To effectively measure the realization of benefits, create a business case scorecard for each investment. This scorecard tracks the expected changes in key business drivers, and can be tweaked up or down in response to unforeseen events. You'll want to use the actual performance — good or bad — to adjust the allocation process and improve your decisions in the future.

Getting started

To attract investors and create value, you need to think like an investor. That means focusing your internal capital on activities and initiatives that provide the best returns relative to the risks taken on. Some companies have already begun to establish a structured approach to internal investing that mirrors the priorities of the world's capital markets. But most still have a long way to go. To get there, they need to ask the right questions and follow the path to value.

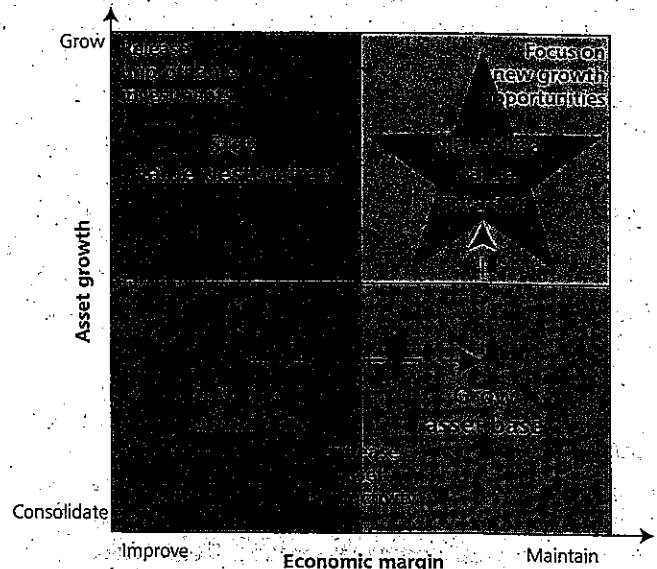
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Question

Do you understand where each of your business units is on the path to value?

Follow the path to value

Although there are many ways to create shareholder value, most improvement efforts follow a common path.



Smart investment decisions often depend on where your business units are on what we call the "path to value". The key steps are:

- **Stop value destruction** by scaling back your investments or getting out of negative margin businesses
- **Improve economic profitability** by reducing costs or increasing the productivity of existing assets
- **Grow the asset base** of positive margin businesses
- **Maximize value creation** by looking for opportunities to exploit a successful business model

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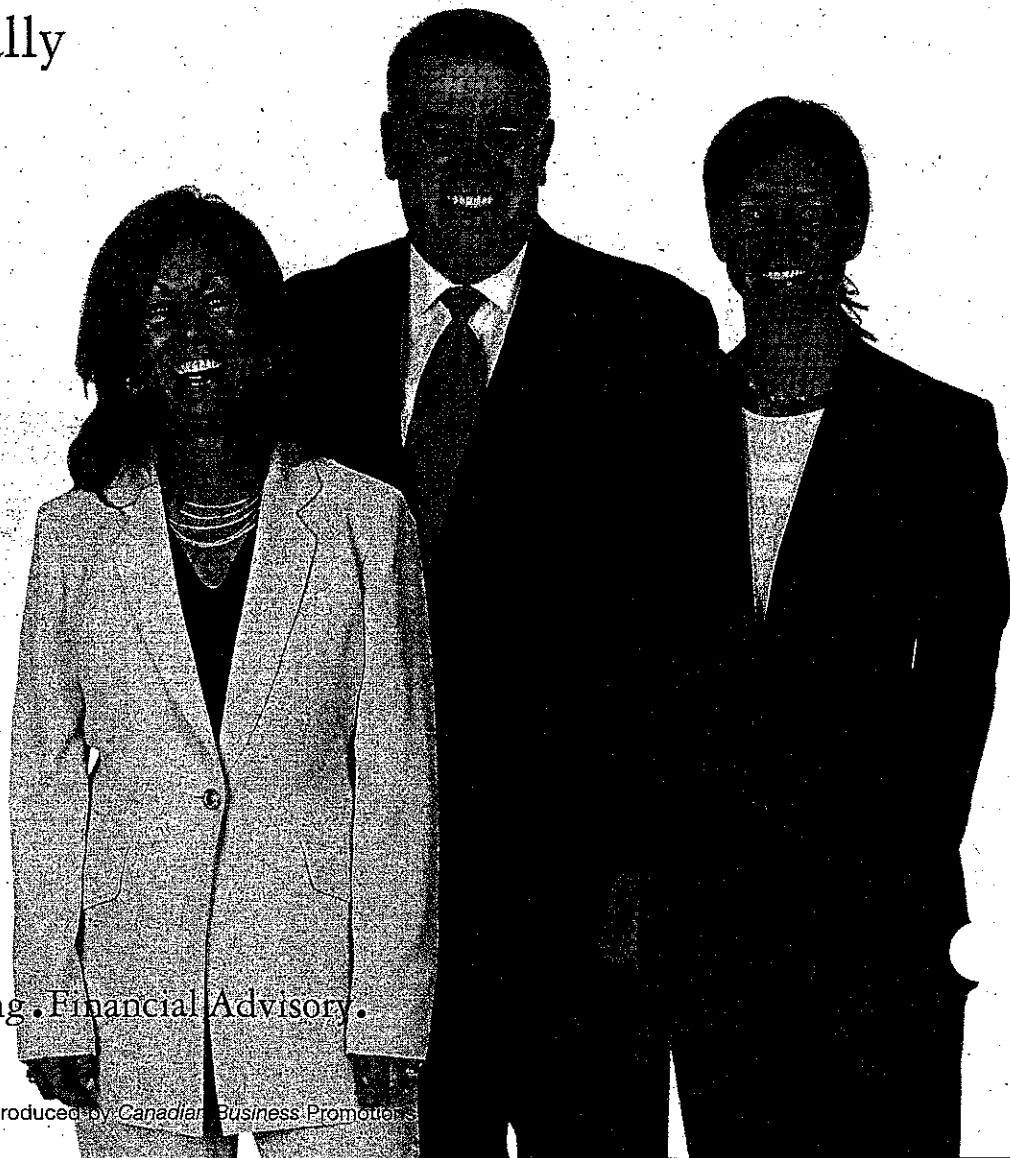
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Carol Gabriel

From: Joulia Whittleton
Sent: Thursday, September 06, 2007 8:07 AM
To: Bill Kostiw
Subject: Mayor Bans the Phrase 'I Don't Know'

Mayor Bans the Phrase 'I Don't Know'

By Bagifa Bukharbayeva
The Associated Press

The mayor of a west Siberian oil town has ordered his bureaucrats to stop using expressions such as "I don't know" and "I can't" – or look for another job.

Alexander Kuzmin, the 33-year-old mayor of Megion in the Khanty-Mansiisk autonomous district, has banned these and 25 other phrases as a way to make his administration more efficient, his spokeswoman said.

"It's a suggestion to the staff that they should think before saying something," Oksana Shestakova said by telephone. "To say 'I don't know' is the same as admitting your helplessness."

To reinforce the ban, a framed list of the banned expressions has been hanging on the wall next to Kuzmin's office for the past two weeks, Shestakova said.

Kuzmin, a businessman who was elected mayor 1 1/2 years ago, wants to "shake things up" in Megion, a town of 54,000, the spokeswoman said.

The region produces more oil than the rest of Russia combined. As world oil prices have risen sharply in recent years, the region has flourished, and in stark contrast to the rest of the country, its population has grown at the rapid rate of more than 7 percent annually.

But construction has not kept pace, and lack of adequate housing is one of the town's most serious problems, Shestakova said.

"Town authorities are there to make town residents' lives comfortable and prosperous," Kuzmin, an oil engineer by training who studied business administration in Canada, said in a statement posted on the town's web site. "Town officials must work out mechanisms to solve and remove problems, not to avoid them."

Officials who disobey the ban while in the Mayor's Office "will near the moment of their departure," the statement said.

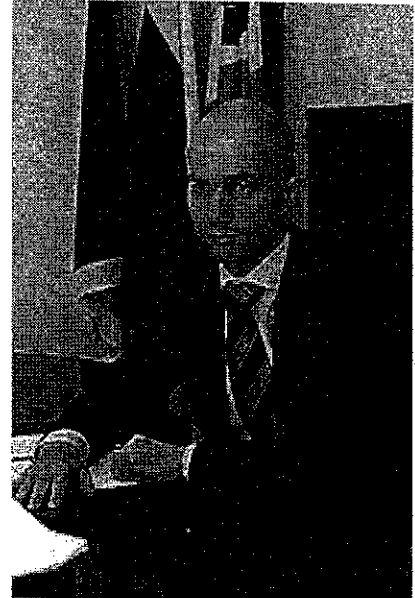
Providing the mayor with wrong or incomplete information, or being late in reporting important information will be considered an attempt to undermine his work, it said.

Anna Borovikova, the mayor's chief of staff, said the novel approach had improved discipline.

"Before, it was so easy to say 'I don't know.' Now, before reporting to the mayor, we prepare several proposals on how one or another problem can be solved," Borovikova said.

At first it was hard to remember not to use the banned expressions, she said, and they "slipped in sometimes."

From "The Moscow Times"



Alexander Kuzmin

admmegion.ru

Banned Phrases


It's not my job
It's impossible
I'm having lunch
There is no money
I was away/sick/on vacation
What am I supposed to do?
What can we do?
I'm not dealing with this
The working day is over
Somebody else has the documents

LAW

Prescribes boundaries of correct legal conduct.

ETHICS


Describes wider boundaries for right and wrong actions: Embraces standards & obligations of law, but also extends further into realms such as intent, conscience, & meaning in context of relationships.




**ORIENTATION SEMINAR
FOR COUNCIL MEMBERS
2007**

**THE ROLES AND
RESPONSIBILITIES OF ELECTED
OFFICIALS**

Presentation to the Mecklenburg County Council
October 24, 2007




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Purpose and Powers


The purposes of a municipality are:

- to provide good government;
- to provide services, facilities or other things that are necessary and desirable for the municipality; and
- to develop and maintain safe and viable communities



(Page 1)


B R O W N L E E
L L P



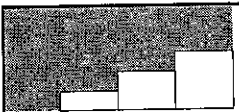
Duties and Responsibilities

The MGA provides that Council is responsible for:

- the development and evaluation of policies and programs of the municipality;
- ensuring that the powers, duties and functions of the municipality are properly carried out;
- carrying out its statutory duties under the MGA and other enactments (MGA s.201);




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> Council: Makes Policy

 > Administration: Implements Policy




B R O W N L E E

4




Councils cannot delegate the following:

- > the power to pass bylaws;
- > the power to make, suspend or revoke the appointment of a person to the CAO position;
- > the power to adopt budgets;
- > the power regarding taxes;
- > the duty to decide appeals unless a delegation is to a Council Committee and is authorized by bylaw.




B R O W N L E E

5



Each individual Councillor Must:

- > consider and promote the welfare and interest of the municipality as a whole;
- > participate generally in the development and evaluation of policies and programs;
- > participate in Council meetings, Council Committee meetings, appointed board meetings;




B R O W N L E E

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**Municipal Actions,
Decision Making, Voting and
Meetings**


- Resolution or bylaw (MGA s.180)
- If no direction, act or power may be by CAO or Council, unless Council directs otherwise



B R O W N L E E
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Natural Person Powers

- MGA s. 6;
- The capacity, rights, powers and privileges of a natural person, i.e. rights to contract, sue and be sued, by and sell property
- May be limited by MGA or other enactment.




B R O W N L E E
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Voting

The obligation of the Councillor to vote is mandatory unless:

- the Councillor is required to abstain (i.e. pecuniary interest); or
- the Councillor is permitted to abstain (i.e. misses a portion of a public meeting).




B R O W N L E E
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Public Meetings

Council must conduct its meetings in public **unless**:


- the matter to be discussed falls within one of the exceptions to FOIPP;
- an MPC, subdivision authority, or SDAB is deliberating on its decision.


B R O W N L E E

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Councillors must be cognizant of when they are having "meetings":


- Is council business being dealt with in such a way as to move it "materially along the way in the overall spectrum of a council decision?"
- Is the public being deprived of the opportunity to observe a material part of the decision-making process?


B R O W N L E E

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Conflict of Interest

- MGA ss. 169-173
- MGA refers to Pecuniary Interest
- Rules are complex
- Breach may result in disqualification



B R O W N L E E

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GOAL OF RULES

To ensure no Councillor is placed in a situation where their personal finances are adverse in interest to the public.




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GENERAL TEST

Could the matter monetarily affect the Councillor to the extent that a reasonable elector, apprised of the circumstances, would be more likely than not to regard the Councillor's private interests as likely to influence their public action on the matter.




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PROCESS

- Declare interest every time it arises
- The Councillor must:
 - **disclose** the nature of the pecuniary interest before any discussion takes place
 - **abstain from voting** on the matter
 - **abstain from any discussion** as a Councillor
 - **leave the room** until the discussion and voting are concluded (subject to MGA s.172(2) and (3))




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BREACH OF THE RULES


- A Councillor is subject to being disqualified
- A Councillor may be subject to a Court Order requiring repayment of the gain to the municipality


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COUNCILLOR'S FAMILY


➤ Family includes:

- Councillor's spouse or adult interdependent partner
- Councillor's children (may include adult children)
- Parents of the Councillor
- Parents of the Councillor's spouse or adult interdependent partner


B R O W N L E E
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COUNCILLOR'S EMPLOYER

- Deemed Interest
- Limit: Councillor does not have a pecuniary interest if a member of their family has an employer that will be monetarily affected (MGA s.170(3)(f))


B R O W N L E E
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COUNCILLOR AS SHAREHOLDER

- Deemed interest in company
Councillor holds Shares in
- Limit: If less than 10% of the Shares of a distributing corporation are held by a Councillor, then they will not have pecuniary interest




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P L L C

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APPLICATION OF CONFLICT OF INTEREST RULES

These rules apply each and every time a matter in which a Councillor has a pecuniary interest comes before Council or Council committees




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P L L C

23

MEMBER OR DIRECTOR OF NON-PROFIT CORPORATION

- No deemed interest
- Limit: A Councillor, who is a member or director, can vote on matters affecting the non-profit corporation unless the Councillor is also an Employee (MGA s.170(4))




B R O W N L E E
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DEFENCES FOR BREACH OF RULES

1. Community of Interest Defence

- Where interest is in common with the community in whole or in part (MGA s.170(3)(l))
- Limit: determining when a sufficient "community of interest" exists




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2. Inadvertence or bona fide Error of Judgment

- Only applies where breach relates to:
 - Failing to vote;
 - Illegal agreements; or
 - The use of information obtained through Council to gain pecuniary benefits (MGA s.174(1)(f)(h))




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THE COMMON LAW AND CONFLICT OF INTEREST

MGA detailed but not clear if a complete code



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CONFLICT OF INTEREST VS. BIAS

- **Conflict of Interest**
 - involve a pecuniary or personal interest on the part of the Councillor
 - breach may result in Councillor disqualification
- **Bias**
 - deals with the ideas of natural justice and procedural fairness in the conduct of a Councillor when fulfilling their obligations
 - breach may result in the decision being invalidated

B

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IF YOU HAVE A CONCERN ABOUT BEING IN A CONFLICT OF INTEREST...

- Err on the side of caution
- Councillor or municipality should obtain independent legal advice
- Remember the Councillor is always responsible for following the rules

B

B R O W N L E E

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Disqualification of a Councillor

The MGA and *Local Authorities Election Act* prescribe the requirements for holding municipal office


B

B R O W N L E E

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CIRCUMSTANCES FOR DISQUALIFICATION

- Absent from regular meetings within 8 weeks, without prior consent
- Failure to vote
- Breach of conflict of interest




B R O W N L E E
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PROCESS FOR DISQUALIFICATION

- A Councillor must resign immediately (MGA s.175(1))
- If a Councillor does not resign then an application may be made to the Courts (MGA s.175(2))
- Application can be brought up to three years from the disqualifying event




B R O W N L E E
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DEFENCES

- Limited defence of inadvertence or bona fide error




B R O W N L E E
.....

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OPTIONS AVAILABLE UPON COURT APPLICATION

Upon application to the Court, the Court may

- declare a person disqualified
- declare that a person may remain a Councillor
- dismiss the application




B R O W N L E E
C O U N C I L L O R S

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FUTURE ELIGIBILITY

Once disqualified, an individual may run for election again in the next general municipal election




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C O U N C I L L O R S

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REPRECUSSIONS OF A DISQUALIFIED COUNCILLOR

- Decisions of Council are protected even if it is found that one of the Councillors is disqualified (MGA s.540)
- Of Note: Decisions are not protected from challenge based on the conduct of the Councillor, procedural issues or any other grounds not specifically enumerated in the MGA



B R O W N L E E
C O U N C I L L O R S


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Personal Liability of Councillors

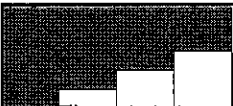
- > Councillors will not be liable for loss or damage caused by anything said or done or omitted to be done in good faith in the performance or intended performance of their functions and duties (MGA s.535(2)).

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B R O W N L E E
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The statutory protection in s.535(2) does not extend to circumstances involving:

- > Defamation;
- > Acts not in good faith;



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L L P


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Personal Liability

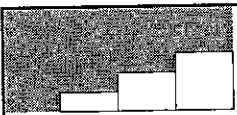
1. Business Revitalization Board

- > If a Board member makes an expenditure that falls outside of the approved budget, the Board member is personally liable to the municipality for the expenditure (MGA s.52(2)).




B R O W N L E E
L L P

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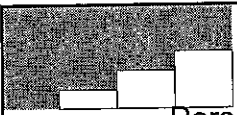
2. Liability Where Disqualified

- > If a judge declares a Councillor disqualified on the basis of obtaining information to gain a pecuniary benefit, the Councillor could be ordered to pay the sum of damages that a judge determines (MGA s.176(2)).



B R O W N L E E
L L P


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Personal Liability

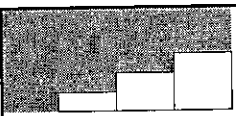
3.Expenditure of Municipal Funds

- > Making an expenditure that is not authorized (s.249(1)(a));
- > Voting to spend grant money for a purpose that was not the basis on which the money was obtained (s.249(1)(b)(c)).




B R O W N L E E
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4. Borrowing and Personal Liability

- > Voting for borrowing, a loan or guaranteeing the repayment of a loan that causes the municipality to exceed its debt limit (MGA s.275(1)).




B R O W N L E E
L L P

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Part 9 Companies and Council: Differing Roles


- Part 9, Companies Act
- Has objects other than the acquisition of gain.
- Generally, a director may incur personal liability for the breach of any of the following:



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Director's Liability

- the duty of care, diligence and skill;
- the duty to act honestly, in good faith with a view to the best interests of the organization;
- the duty to exercise powers for a proper purpose;




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B R O W N L E E



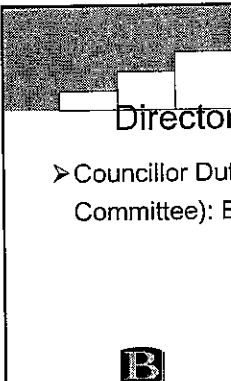
Director's Liability

- the duty to disclose personal interests in the transactions of the organization; and
- The duty to avoid appropriation of opportunities available to the organization.



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B R O W N L E E

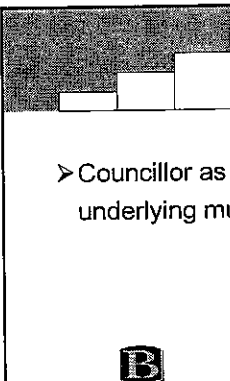


Director vs. Councillor

- Councillor Duty (or Councillor Committee): Betterment of Municipality

B
R O W N L E E
P L C
P L A N N I N G & A R C H I T E C T U R E

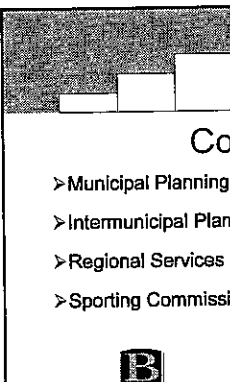
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Councillor as Director: Mindful of underlying municipal purpose

B
R O W N L E E
P L C
P L A N N I N G & A R C H I T E C T U R E

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Commissions

- Municipal Planning Commissions s.626(1)
- Intermunicipal Planning Commissions s.626(3)
- Regional Services Commission s.602.01
- Sporting Commissions s. 535.1


B
R O W N L E E
P L C
P L A N N I N G & A R C H I T E C T U R E

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Intermunicipal & Municipal Planning Commissions

- A bylaw establishes a Municipal Planning Commission.
- An agreement establishes an Intermunicipal Planning Commission.




B R O W N L E E

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Municipal Planning Commissions

- may be authorized to be the Subdivision and/or Development Authority;
- is authorized to deliberate and make decisions in meetings closed to the public.




B R O W N L E E

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Regional Services Commissions

- established by provincial regulation;
- significant Ministerial involvement;
- corporations with natural person powers except limited by the MGA or other enactments.



B R O W N L E E

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Directors of Commissions

- who represent a municipality must be a Councillor;
- have a fiduciary duty of utmost loyal, honesty and good faith;
- hold a position of "trust and confidence";
- owe a duty of care, diligence and skill.
- have a duty to be competent and informed.

B
B R O W N L E E
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The Board of a Regional Services Commission Cannot Delegate:

- The power or duty to pass bylaws;
- The power to expropriate;
- The power to authorize borrowing;
- The power to adopt budgets;
- The power to approve financial statements.

B
B R O W N L E E
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Regional Services Commission Meetings

- Meetings of the Board and its committees must be conducted in public unless the matter comes within an exception to the disclosure list in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*.

B
B R O W N L E E
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Personal Liability of Directors
(Regional Commission)

- Instances when a Director may be personally liable:
 - Unbudgeted expenses;
 - Use of borrowed or granted funds;
 - Debt limit;
 - Breach of Fiduciary Duty




B R O W N L E E

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**Freedom of Information and
Protection of Privacy Act**

- Applicable to Public Bodies, including municipalities
- Purpose of Act
- Right of Access to All "Records" In "Custody" or "Under Control" of Municipality
- Unless there is exception to Disclosure




B R O W N L E E

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Exceptions to Disclosure

- Mandatory
 - Harmful to business interest of third party (s.16)
 - Personal information (s.17)




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Discretionary

- > Harmful to law enforcement (s.20)
- > Local public body confidences (s. 23)
- > Advice to Officials (s.24)
- > Privileged information (s.27)
- > Public information (s.29)



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L L P
S E R V I C E S


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In Camera Meetings


> All meetings in public, except where:

- > Deliberations of planning committees
- > Matter falls within exception to FOIPP Act




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> Common matters excepted under FOIPP Act include:

- > Legal advice
- > Employment matters (personal information)
- > Complaints on breaches of bylaws
- > Personal information
- > Draft bylaws, resolutions etc.




B R O W N L E E
L L P
S E R V I C E S

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Implications of FOIPP Act

- Access to municipality's records
- Handwritten notes accessible to public
- Limit records and files
- Confidentiality and "in camera" matters




B R O W N L E E
L L T

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Recent Cases

- *Re Guilmond and Somberger* (1980) ABCA
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- *Petherbridge v Lethbridge (City)* (2000) ABQB
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Recent Cases

- *Bowes v Edmonton (City)* (2005) ABQB
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- *Urban Development Institute v Leduc (City of)*
(2006) ABQB
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- *London (City) v RSJ Holdings Ltd.* (2007) SCC
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B R O W N L E E
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THE ROLES AND RESPONSIBILITIES OF ELECTED OFFICIALS

**Presentation to the Mackenzie County Council
October 24, 2007**

**Presented by:
Barry A. Sjolie**



B R O W N L E E
L L P
B a r r i s t e r s & S o l i c i t o r s

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{02/10/2007 ,E0622503.DOC;1}

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{02/10/2007 ,E0622503.DOC;1}

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A. THE ROLE OF COUNCIL AND COUNCILLORS UNDER THE MGA

Powers and Responsibilities

The business of municipal corporations is complex. Accordingly, the relationship between a municipality and its Councillors is unique and important. The relationship is distinct from an employer-employee relationship and distinct from the relationship between a private corporation and its directors. We trust that the materials that follow will assist Councillors in meeting the challenges and responsibilities of holding the office of an elected official.

1. Purpose and Powers of Municipalities

In order to appreciate the role of Council and Councillors in a municipality under the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended (the "MGA"), it is important to be aware of the specific purposes that the MGA defines for municipalities.

Pursuant to Section 3 of the MGA, the purposes of a municipality are:

1. to provide good government;
2. to provide services, facilities or other thing that, in the opinion of Council are necessary or desirable for all or part of the municipality; and
3. to develop and maintain safe and viable communities.

To effect these municipal purposes, the Council may pass bylaws respecting a number of matters including matters relating to:

- safety and health of people;
- protection of property;
- transportation and transport issues;
- business and business activities; and
- public utilities matters.

In addition, in exercising its bylaw making powers, a municipality may regulate or prohibit and may deal with development, activity, industry or business in different ways by dividing each of them into classes and dealing with each class in a different way (MGA ss. 7 and 8).

2. Duties and Powers of Council and Administration

Duties and Responsibilities of Council

The *MGA* also provides that a municipality is governed through its Council and specifically sets out the responsibilities of the municipal Council itself. The Council is responsible for the following:

1. the development and evaluation of policies and programs of the municipality;
2. ensuring that the powers, duties and functions of the municipality are properly carried out;
3. carrying out the powers and duties of the municipality that are provided for specifically in the *MGA* and any other enactment (*MGA* s.201).

It is also very important for Council to recognize that it **must not** exercise or perform a duty that is, pursuant to the *MGA* or another Act or bylaw, **specifically** given to the Chief Administrative Officer of the municipality or a designated officer of the municipality. For example, it is generally the responsibility of a designated officer, not a Council member, to deal with contraventions of municipal bylaws (*MGA* s.201). See ss. 207 and 208 of the *MGA* for statutory responsibilities of the CAO, as well as the CAO Bylaw for the delegated authority from the Council.

As you can see from the foregoing responsibilities of Council, it is clear that Council must recognize that its responsibility and power is that of a **policymaker** and the **implementation of policy** should be left to the municipal administration.

Delegation

A municipal Council has the authority, by bylaw, to delegate powers to a Council committee, to the Chief Administrative Officer, or a designated officer unless the *MGA* or a municipal bylaw says otherwise (*MGA* s. 203).

However, Councils **cannot** delegate the following:

1. the power to pass bylaws;
2. the power to make, suspend or revoke the appointment of a person to the Chief Administrative Officer position;
3. the power to adopt budgets;

4. the power with respect to taxes under s. 347 (to cancel, reduce, refund or defer);
5. the duty to decide appeals imposed on it unless the delegation is to a Council committee and authorized by bylaw.

A Council may also authorize the further subdelegation by its Chief Administrative Officer or a designated officer or a Council committee to other persons (*MGA s.203*).

The *MGA* also requires Council to provide the Chief Administrative Officer with an annual written performance evaluation with respect to the chief administrative officer's fulfillment of his or her responsibilities (*MGA s.205.1*).

Councillor Duties and Responsibilities

As an individual Councillor of a municipality, each Councillor has the specific duties:

1. to consider and promote the welfare and interest of the municipality as a whole and to bring to Council's attention anything that would promote the welfare or interest of the municipality;
2. to participate generally in developing and evaluating policies and programs of the municipality;
3. to participate in Council meetings and meetings of Council committees or other bodies that a Councillor is appointed to;
4. to obtain information about the operation or administration of the municipality from the Chief Administrative Officer or his/her designate;
5. to keep in confidence matters that are discussed in private at a Council or Council committee meetings until those matters are discussed at a meeting held in public; and
6. to perform any other duties or functions that are imposed upon Councillors by the *MGA* or any other Act (*MGA s.153*).

Ethics

A Councillor is required to swear or affirm an oath pursuant to the *Oaths of Office Act*. The oath is to take the form of:

I, _____, swear (or "solemnly swear and truly declare and affirm") that I will diligently, faithfully and to the best of my ability execute according to law the office of _____.

So help me God.

(Omitting "so help me God" if affirming)

The breach of one's oath may carry liability similar to that of other breaches of duty. There may be cause for censure by Council or for application to the Court. Censure by Council may involve measures that range from simply requesting that a Council member resign through to removing that member from appointed positions. Remedies which the court may apply in such circumstances may include:

- An accounting of profits, if any, related to the breach;
- Compensatory damages awarded to an injured or affected party; and
- Injunctive relief.

Chief Administrative Officer

Pursuant to the *MGA*, it is the responsibility of a municipal Council to establish the position of Chief Administrative Officer. A Council can appoint one or more persons to carry out the functions, powers and duties of the Chief Administrative Officer. The Chief Administrative Officer is responsible for the administration of the municipality and the person(s) holding this position plays a vital role. The Chief Administrative Officer position:

1. is the administrative head of the municipality;
2. is required to ensure that policies and programs of the municipality are implemented;
3. must advise and inform Council on the operation and affairs of the municipality;
4. must perform the duties and exercise the powers and functions assigned to the position of Chief Administrative Officer (*MGA s.207*).

In addition, a number of administrative duties are denoted in the *MGA* specifically in relation to the taking of minutes and the recording of Council meetings (*MGA s.208*).

Responsibilities of Chief Elected Official

In addition to performing the obligations and duties of a Councillor, the chief elected official must:

1. preside when in attendance at a Council meeting unless a bylaw provides otherwise; and
2. perform any other duty imposed on a chief elected official by the MGA or any other act or bylaw (MGA s.154).

The chief elected official is automatically a member of all Council committees and all bodies to which the Council has the right to appoint members under the *MGA*, unless the Council provides otherwise. However, the chief elected official **is not** a member of a board, commission, subdivision authority or development authority established under the planning provisions of the *Act*, unless he or she is appointed to such a body in his or her personal name.

Deputy and Acting Chief Elected Officials

A Council must also appoint one or more of its Councillors as a Deputy Chief Elected Official. A Deputy Chief Elected Official must act as the chief elected official when the chief elected official is unable to perform those duties or when the office of chief elected official is vacant (*MGA* s.152).

3. Municipal Actions, Decision Making, Voting and Meetings

Valid Action

Section 180 of the *MGA* provides that a Council may **only** act by resolution or bylaw. It is also important for municipalities and Councillors to note that where they are only authorized to do something by bylaw, they must do it by using **only** the bylaw making powers. If an enactment is not specific about how a Council may act, it may act by resolution or by bylaw.

As a general rule, a bylaw should be used where the Council is regulating the activities of the general population, or a portion thereof; resolutions should be used for the business or administrative activities of the Council.

Council again must be sure to remember that a bylaw or resolution **is not** valid unless it is passed at a Council meeting that is held in **public** at which a **quorum** of Council is present (*MGA* s.181).

Municipal Powers

Where a municipality can do something and the legislation is not specific as to who may act on behalf of the municipality, or where a municipality specifically exercises its natural person powers, then the act that is done or the powers that are exercised may be exercised by the Council or by the municipality's Chief Administrative Officer, unless the Council says otherwise. However, it is only the municipal Council that can pass bylaws (*MGA s.202*).

Voting

There is a restriction of one vote per Councillor when a vote is held at a Council meeting. All Councillors **must vote** on a matter put to a vote at a meeting that they are in attendance at. The obligation of the Councillor to vote is **mandatory** unless:

1. the Councillor is required to abstain, or
2. the Councillor is permitted to abstain.

Where a Councillor abstains from voting, the reasons and the abstention itself must be recorded in the meeting minutes. It is also important for Municipal Councillors to note that it is in fact **the Council's** mandatory obligation to ensure that where a Councillor abstains from voting, **that the abstention and reasons are recorded in the meeting minutes**. A Councillor may abstain from voting, for example, because he or she has a pecuniary interest in the matter (*MGA s.183*).

Recording the Vote

A Councillor may request that the vote be recorded **before** it is taken. Where such a request is made, the minutes must show the Councillors who were present and how each of those Councillors voted on the matter (*MGA s.185*).

Public Hearings

Councillors should also recognize that they **cannot vote** on a bylaw or resolution if they **were absent for all of the public hearings** relating to the proposed bylaw or resolution. A Councillor, however, does have the discretion to vote on a bylaw or resolution if he or she was absent for **only a part** of the public hearings on a bylaw or resolution (*MGA s.184*).

Information on Bylaws

At the meeting where first reading of a bylaw is made, Councillors must be given or have had the opportunity to review the **full text of the proposed bylaw before first reading is received.**

Similarly, at the third reading stage, Councillors are again to have had or to be given the opportunity **to review the full text of the proposed bylaw** (*MGA s.187*).

Meetings

Council has the obligation to hold an organizational meeting annually not later than two weeks after the third Monday in October (*MGA s.192*).

Regular Meetings

Council may decide to hold regular meetings on a particular date at a particular place. When this is done, no notice of regularly scheduled meetings is required to be given (*MGA s.193*).

Changes

If the date, time or place for a Council meeting is changed from the regularly scheduled meeting, the following must be undertaken:

1. 24 hours notice of the change must be provided;
2. notice must be given to Councillors who were not at the meeting where the change in meeting date was made;
3. notice must be given to the public.

Special Meetings

A special meeting can be called by the chief elected official (the Mayor or Reeve) whenever they feel it is appropriate to do so.

The chief elected official **must** call a special meeting if he or she receives a written request for a meeting, from a majority of the Councillors, which states its purpose for the meeting.

Where a chief elected official receives a request for a special meeting it must be held within

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14 days of the receipt of the request (or a shorter time frame if a bylaw so provides).

Twenty-four hours notice in writing must be given to each Councillor and to the public detailing the date, time and place, and purpose of the special meeting.

A special meeting of Council may be held with less than 24 hours notice, and no notice need be provided to the public if 2/3 of the whole Council agree to it in writing.

At a special meeting, no matters other than the ones detailed in the notice relating to the special meeting can be dealt with by Council unless the whole Council at the special meeting agrees to deal with an additional or other matter (*MGA* s. 194).

Council Committee Meeting

A Council committee meeting requires that twenty-four hours notice of the meeting be given to:

1. members of the Council committee;
2. the public.

Public Meetings

The Council must conduct its meetings in public unless:

1. the matter to be discussed is within one of the exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*; R.S.A. 2000, c.F-25, as amended (i.e. harmful to business interests of a third party; harmful to personal privacy; harmful to individual or public safety, etc.); or
2. a municipal planning commission, subdivision authority, development authority or subdivision and development appeal board is deliberating on its decision.

If Council decides to close a meeting to the public, it cannot pass a resolution or bylaw at that time. Subject to the above 2 exceptions, the public has the right to be present at Council or Council committee meetings, unless they are expelled for improper conduct (*MGA* s. 198).

Councillors must be cognizant of when they are having "meetings". For example, in a decision out of the Northwest Territories, the court declared that a Municipal Council improperly held Council meetings because they were not "in public". The City unsuccessfully argued that informal "briefing sessions" were taking place, and not meetings of Council. The aldermen's briefings were held on a weekly basis with the Aldermen and

the City's Senior Administrative Officer, and other senior members of the City administration, in a basement boardroom.

The Court applied case law and found that the sessions fell within the meaning of a "meeting". The briefing sessions involved a meeting to discuss matters within the jurisdiction of Council and dealt with matters which form the basis of the Council's business. These matters were dealt with in such a way "as to move them materially along in the overall spectrum of Council's decision".

In this case, the Court found that the briefing sessions were wide-ranging and went far beyond updating aldermen about administration activities. The Court found that sessions dealt with many matters within the jurisdiction of Council where decisions were made and instructions given by the Council to the administration, and where confidential issues were dealt with without the necessity of an in-camera resolution.

Notwithstanding the foregoing, where a municipal planning commission, subdivision authority, development authority or subdivision and development appeal board are deliberating and making their decisions, as referred to above, they may do so in meetings **closed to the public.**

Electronic Meetings

A Council meeting or a Council committee meeting can be conducted by electronic means or through other communication facilities. However, when this is done, the following steps must be taken:

1. notice must be given to the public about how the meeting will be conducted;
2. the facilities must enable the public to watch or listen to the meeting at a place specified in the notice, and a designated officer is in attendance at that place;
3. the facilities provided must enable all participants to watch or hear each other.

The electronic alternative to conducting hearings certainly is a significant change in the manner in which a municipality may conduct its meetings. Some methods which could be used potentially to achieve the new meeting format are telephone conference calls or closed circuit television.

4. **General Structure of a Municipality**

The *MGA* provides that you may structure the organization of your municipality in the manner that you consider appropriate. In terms of the number of Councillors required for municipalities, a Council must consist of at least three Councillors, one of those being the chief elected official. A Council can determine the number of Councillors it requires based on its individual needs. Specific guidelines in relation to particular types of municipalities are provided for in s.143 of the *MGA*. If a municipality is considering changing the number of Councillors it has to be careful to ensure that it advertises the bylaw providing for the change *at least* 180 days before the next general election.

Chief Elected Official

Section 150 of the *MGA* provides that a chief elected official of a city or town is to be elected by a vote of the electors of the municipality, *unless* the Council passes a bylaw otherwise; a chief elected official of a village, summer village or municipal district is appointed from among the councillors, unless Council passes a bylaw otherwise. If the municipality wishes to pass a bylaw dealing with the election or appointment of the chief elected official, this bylaw must again be passed not less than 180 days before the next general election.

Council Committees

Council may establish and set out the functions of Council committees by bylaw. Council committees can assist and ensure that municipal matters are efficiently addressed. A Council committee may consist of Councillors, a combination of Councillors or entirely of persons not Councillors. The Chief Elected Official is automatically a member of the committee (except for commissions, authorities or boards established under the planning provisions, in which case personal appointment is required for the chief elected official to be a member of such a tribunal).

B. CONFLICT OF INTEREST

The Conflict of Interest Rules are complex. A breach of these rules may result in a councillor's disqualification. Below is a general outline of these rules. If a potential conflict situation arises, review the *MGA* and seek clarification from administration or legal counsel. That said, a councillor is personally responsible to know and follow the conflict of interest rules.

The conflict of interest rules are found in the *MGA* ss. 169-173; the *MGA* uses the term "pecuniary interest". In practice, the terms "conflict of interest" is often used to describe the term "pecuniary interest" as referred to under the *MGA* ss. 169-173. There are other situations where the term "conflict of interest" can be used; for example, see our discussion below respecting a councillors' responsibilities in the context of "E. Part 9 Companies" or "F. Regional Services Commissions".

Q1: What Is The Goal Of Conflict Of Interest Rules?

The goal of the conflict of interest rules is to ensure that councillors do not put themselves in a situation where their personal financial situation is adverse to the interests of the public at large. In a case involving Edmonton Mayor, William Hawrelak, Chief Justice Smith of the Alberta Court of Appeal stated the essential proposition in law, a principle found in an English decision of the Mid 19th Century:

"The rule is based on a rule of human nature, that no person having a duty to perform shall be allowed to place himself in a situation in which his interest and duty may conflict."

Q2: What Is The General Test For Determining If A Conflict Of Interest Exists?

The test for determining if a conflict of interest exists is the reasonable elector test, namely, could the matter monetarily affect the councillor (or their family) to the extent that a reasonable elector, apprised of all the circumstances, would be more likely than not to regard the councillor's private interests as likely to influence their public action or decisions on the matter?

This test is the result of the Court's interpretation of the phrase "a matter that could monetarily affect" which is found in the *MGA* sections dealing with pecuniary interest. A recent Alberta decision (*Howell v Grande Yellowhead Regional Division No. 35*, 2006 Alberta Queen's Bench ("*Howell*")) looked at a similar phrase in the School Act dealing with pecuniary interests.

In *Howell*, Justice Moen noted that “the definition of “pecuniary interest” is an interest in a matter that could affect a person, not one that would” and that “even a general discussion” of a matter that could affect the person required the person to refrain from discussing and voting on the subject. Further, Justice Moen confirmed that whether a person has a pecuniary interest (i.e. whether a matter could affect a person) is considered objectively, on a “reasonableness” standard; it is not for the person voting to decide according to his intentions or motives. Likewise, the test is not whether the councillor is affected, but rather whether the councillor could be affected. Finally, Justice Moen applied the following test, adopted from a 1974 Alberta Court of Appeal case, to determine whether a pecuniary interest exists:

“The Court is not to measure or weigh the extent or amount of a pecuniary interest if an interest in the relevant sense can be said to exist ...”

If such an interest can be reasonably said to exist, then the Court cannot ignore it nor be moved by protestations that it did not influence the person whose vote is impugned. The question is whether the pecuniary interest can be reasonably said to exist, not whether or how it had an effect on the vote.” *Lukas v Peden* (1974, Alberta Court of Appeal)

Q3: When A Conflict Of Interest Arises, What Process Must The Councillor Follow?

Section 172 of the MGA provides that a pecuniary interest of a councillor must be declared each and every time it arises, either at a committee meeting or a meeting of Council.

Where a councillor has a pecuniary interest in a matter before Council, a Council committee or any other body to which the councillor is appointed as a representative of the Council, if present the councillor must:

1. disclose the nature of the pecuniary interest **before** any discussion of the matter;
2. abstain from voting on any question relating to the matter;
3. abstain from any discussion of the matter save for their right as a taxpayer, owner or elector to be heard by Council;
4. subject to Section 172(2) and 172(3), leave the room in which the meeting is held **until** the discussion and voting are concluded.

When a councillor has a right to participate in a public hearing as a member of the public, the councillor may do so; in all other situations, the councillor must leave the Council chambers (*MGA* s. 172(3)). As well, it is important to remember that these rules

apply to the discussion, as well as the vote, and as a result the councillor cannot remain in chambers for the discussion.

Q4: What Is The Effect Of A Breach Of The Conflict Of Interest Rules?

If a councillor breaches the conflict of interest rules found in the *MGA*, they are subject to being disqualified as a councillor (this is discussed in greater detail in the Disqualification Section of these materials). As well, a councillor may be subject to a Court Order which orders restitution of the gain they received as a result of the decision of Council and their failure to abide by the conflict of interest rules.

Q5: When Will The Interest Of A Family Member Be Deemed To Be The Councillor's Interest?

The *MGA* attempts to delineate when the councillor will be subject to the conflict of interest rules due to the pecuniary interests of their families. A "councillor's family" is defined under the *MGA* as meaning the councillor's spouse or adult interdependent partner, the councillor's children, the parents of the councillor and the parents of the councillor's spouse or adult interdependent partner.

The *MGA* goes on to define "spouse" in Section 169(c) to exclude firstly spouses who are living separate and apart with a written separation agreement, and secondly spouses whose property and support obligations are subject to a Court Order.

It should be noted that Section 170 does not provide an exception for adult children that are independent. As a result, matters that financially impact an adult child could potentially give rise to a conflict of interest.

Q6: When Will the Interest of the Councillor's Employer Be Deemed To Be the Councillor's Interest?

Section 170 deals with the possible pecuniary interests that may arise due to a councillor's employment. Section 170(1) states:

"(1) Subject to subsection (3), a councillor has a pecuniary interest if

- (a) the matter could monetarily affect the councillor or an employer of the Councillor, or
- (b) the Councillor knows or should know that the matter could monetarily affect the councillor's family."

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Therefore, if the employer of the councillor will be affected monetarily by a decision of Council, the councillor has a pecuniary interest which must be declared. There are some limits in respect of the councillor's family and their employment which is set out section 170(3)(f) which states:

"(3) A councillor does not have a pecuniary interest by reason only of any interest ...

(f) that a member of the councillor's family may have by having an employer, other than the municipality, that is monetarily affected by a decision of the municipality."

This section provides a councillor with more flexibility in terms of the decisions of council that they can be party to. As a result, this section provides a councillor the ability to serve the interests of their electorate even if the decision financially impacts a family member's employer.

Q7: When Will The Interest Of A Company That The Councillor Holds Shares In Be Deemed To Be The Councillor's Interest?

The MGA sets out when a councillor will be monetarily affected by holding shares and as a result be subject to the conflict of interest rules. According to Section 170 (2):

"(2) a person is monetarily affected by a matter if the matter monetarily affects

(b) a corporation, other than a distributing corporation, in which the person is a shareholder, director, or officer,

(c) a distributing corporation in which the person beneficially owns voting shares carrying at least 10% of the voting rights attached to the voting shares of the corporation, or of which the person is a director or officer, or

(d) a partnership or firm of which the person is a member."

As a result, a councillor has to ensure that any shares they hold do not fall under the categories as set out in the MGA. If the councillor does hold shares under the ambit of the MGA, they must ensure to disclose the pecuniary interest and abstain from

discussing or voting on matters that may affect their holdings.

Q8: Do The Conflict Of Interest Rules Apply To Matters Before Council? What About Council Committees?

The conflict of interest rules apply each and every time a matter in which a councillor has a pecuniary interest comes before Council or a Council committee. As well, councillors should be aware that the rules apply to their role as members of council committees including a planning tribunal where they have been appointed to such tribunals.

Q9: Do The Conflict Of Interest Rules Apply To Non-Profit Corporations That The Councillor Is A Member Or Director Of?

The conflict of interest rules in relation to non-profit corporations is set out in section 170(3)(g) of the MGA. Section 170(3)(g) states:

“(3) A councillor does not have a pecuniary interest by reason only of any interest

(g) that the councillor or a member of the councillor’s family may have by being a member or director of a non-profit organization as defined in section 241(f) or a service club,”

Based upon this section, a councillor does not have a pecuniary interest by reason only of an interest that the councillor or a member of the councillor’s family may have by being a member or director of a non-profit organization as defined under section 241(f) or a service club. A non-profit organization is section 241(f) is defined as meaning:

“(i) a society, credit union or co-operative established under a law of Canada or Alberta,

(ii) a corporation that is prohibited from paying dividends to its members and distributing the assets to its members on a winding-up, or

(iii) any other entity established under a law of Canada or Alberta for a purpose other than to make a profit.”

However, a councillor, who is a member or director, will be able to vote on such matters affecting these non-profit corporations without fear of disqualification, so long as the councillor is not an employee (section 170(4)).

Q10: Are There Any Defences Available If There Is A Breach Of The Conflict Of Interest Rules?

We will discuss defences in more detail below, namely:

1. Community of Interest Defence
2. Inadvertence Defence
3. Bona Fide Error of Judgment Defence

Q11: What Is The Community Of Interest Defence?

The defence of "Community of Interest" is found in Section 170(3)(i) of the *MGA* which states:

"(3) A councillor does not have a pecuniary interest by reason only of any interest

....

- (i) of the councillor, an employer of the councillor, or a member of the councillor's family that is held in common with a majority of electors of the municipality or, if the matter affects only part of the municipality, with the majority of electors in that part,..."

The concept behind the Community of Interest defence is straightforward, but its application problematic. The defence applies in situations where the interest is in common with the community in its entirety or where the interest is in common with one particular subsection of the community when only a subsection of the community is affected by the decision.

The application of this defence is complicated. It is difficult to determine when a sufficient "community of interest" exists by which the councillor is able to participate in the discussion and decision made by council without running afoul of the conflict of interest provisions. This determination is especially difficult when only a subsection of the community is affected and the councillor is a member of that subsection. The case law in this area does not lend itself to setting out general principles for determining the sufficiency of a "community of interest". The Alberta cases do not provide a clear direction as to when the community of interest defense will be applied. As a result, it can often be difficult for a councillor to determine if they can rely on the issue being one where there is a "community of interest" when the matter presents itself before council and unless it is abundantly clear, the councillor should be cautious in participating in discussions and decisions of the matter.

Q12: When Will The Inadvertence Or Bona Fide Error Of Judgment Defence Apply?

The *MGA* limits the defences available to councillors from disqualification for genuine error of judgment and inadvertence (section 177 of the *MGA*). These defences no longer apply to those situations where a councillor votes on a matter where he or she has a pecuniary interest. These defences only apply where the person is disqualified under section 174(1)(f), (h) or (i) which are the following circumstances:

- failing to vote
- illegal agreements
- use of information obtained through being on Council to gain pecuniary benefits.

This is a significant reduction in the protection previously afforded municipal councillors. In the past several years, many councillors were found to be in a conflict of interest by the Courts but were relieved from disqualification by reason of the bona fide error of judgment or inadvertence defences. These defences will no longer be available except in the limited cases specifically provided for in the *MGA*. Municipal councillors must be mindful that these defences are no longer generally available and must govern themselves more carefully.

Q13: Does The MGA Include All Of The Conflict Of Interest Rules?

The Conflict of Interest Rules were originally common law, ie: judge made law. Over time, the *MGA* has included more and more details on the Conflict of Interest Rules. The *MGA* attempts to clarify and make more certain many of the rules relating to "pecuniary interest" and disqualification. It is still uncertain as to whether or not the *MGA* provides a complete codification of the common law with respect to disqualification of councillors. As a result, it is important for a councillor to keep their mind turned to the possibility of conflicts of interest and seek out independent legal advice if there is any question regarding the councillors ability to participate, discuss and vote on a particular matter.

Q14: How Is Conflict Of Interest Different From Bias?

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Conflict of Interest issues involve a pecuniary interest or personal interest on the part of the councillor. Bias, on the other hand, deals with the ideas of natural justice and procedural fairness in the conduct of a councillor fulfilling his or her obligations to the public, whether on an administrative, legislative or quasi-judicial level.

The issue of bias came before the Alberta Court of Appeal in the decision of *Hutterian Brethren Church of Starland v Starland No. 47 (Municipal District)* (hereinafter "*Starland*"). In this decision, Justice Cote set out the three categories of bias that may exist:

1. closed mind - an opinion about the subject matter so strong as to produce fixed and unalterable conclusions;
2. financial interest - any pecuniary bias, however slight; and
3. attitudinal/procedural bias - personal bias either by association with a party or personal hostility to a party, where the test is real likelihood of bias and the appearance that justice is done."

A councillor must turn their minds to all three types of bias when determining a matter. A councillor is free to express views and take a stand on a particular issue without being disqualified on the basis of bias, as long as they remain amenable to persuasion by the opposing view. Therefore, the test for the first category of bias, is one of a closed mind. This type of bias may be difficult to establish, as it is difficult to prove that an individual has a closed mind. This being said, you must still be aware that this type of bias exists and may cause a councillor problems if they are found to have acted with a closed mind.

The third category of bias is generally associated with procedural fairness. In the *Starland* decision, Justice Cote writing for the Court set out the test that applied to this type of bias, namely, whether there is a reasonable apprehension of bias. The degree of procedural fairness required will depend on the issue being considered, and also whether the matter is being considered by Council sitting as council, or some other type of Council committee. Although an in-depth discussion of bias is beyond the scope of this paper, suffice it to say that the rules relating to attitudinal bias (or procedural bias) will generally not apply when Council is making a decision about legislation or bylaws, but may apply when a Councillor is considering a dispute that arises between specific individuals (such as sitting on a planning committee such as a developer and a neighbour).

Therefore, it could be said that there is a lower threshold for establishing the third category of bias (attitudinal bias), than in relation to the first category of bias (closed mind). A reasonable apprehension of bias generally means that a person who knew the

circumstances of the situation would be more likely to think that the decision of the councillor was affected by their relationship to one of the parties. The test is not whether the decision was actually affected, but rather whether someone would think that it could be affected.

It can be seen that bias and conflict of interest are two separate concepts. One difference between the two concepts is that a breach of the conflict of interest rules will result in disqualification of the councillor, whereas breach of the bias rules may invalidate the decision made.

Q15: If a Councillor Has Concerns About Whether They Are In A Conflict Of Interest Situation, What Should Be Done?

Given the severity of the consequences for breaching the conflict of interest rules and pecuniary interest provisions, councillors should always err on the side of caution in these matters. If a question arises whether a councillor is in a conflict of interest situation, the councillor or the municipality may obtain independent legal advice in an attempt to determine if they should follow the disclosure requirements required in the *MGA* for that particular matter. That said, a councillor is always personally responsible for following the conflict of interest rules.

Further, if a councillor has a pecuniary interest in one aspect of a larger matter, it may be possible for council to tailor its agenda. Council may be able to separate the one aspect from the larger issue, such that the aspect is an individual agenda item, leaving the balance of the larger issue to be addressed as a separate agenda item; this may allow the councillor to excuse themselves on the one smaller aspect, but participate in the balance of the discussion in relation to the larger issue.

Conclusion

This section has attempted to focus upon some of the issues associated with conflict of interest and pecuniary interest. Review of the cases in this area suggests that the common law problems associated with conflict of interest have, to a considerable degree, been resolved by statutory amendments. However, the common law is not strictly set aside by these provisions.

Most conflict problems can be avoided if councillors are attuned to the provisions of the *MGA*. A high degree of vigilance is required by a councillor to ensure that there are no lurking conflicts of fairly mundane issues. One of the Justices of the Supreme Court commented upon the duty of municipal councillors in today's society where it was said:

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"Confidence in our institutions is at a low ebb. This statement is not very original but unfortunately is unchallengeable. Many factors have brought about this crisis and unconscionable conduct by public officials is only part of the story. Still, if we are to regain some of the lost ground, we have to start somewhere. To reaffirm the requirements of highest public morality in elected officials is a major step in that direction. To speak of civil liberties is very hollow indeed if these liberties are not founded on the rock of absolutely unimpeachable conduct on the part of those who have been entrusted with the administration of the public domain."

This comment was made by Mr. Justice de Grandpre of the Supreme Court of Canada in *Hawrelak v Edmonton* in 1975. It is interesting to note that Mr. Justice de Grandpre dissented on the issue of whether Mr. Hawrelak should have to repay any profits that he obtained. He held that there was a profit and that it should be repaid. Although the comments were made in dissent, it is still a reminder of the standard that the Courts and indeed the public expect of their elected officials.

C. DISQUALIFICATION OF A COUNCILLOR

The MGA and the Local Authorities Election Act prescribe the continuing requirements for holding municipal office.

Q1: Under what circumstances may a councillor be disqualified from council?

The MGA clearly sets out those circumstances in which a councillor will be considered disqualified in section 174. Section 174 states:

- “(1) A councillor is disqualified from council if
- (a) when the councillor was nominated, the councillor was not eligible for nomination as a candidate under the Local Authorities Election Act;
 - (b) the councillor ceases to be eligible for nomination as a candidate under the Local Authorities Election Act;
 - (c) the councillor becomes a judge of a court or a member of the Senate or House of Commons of Canada or of the Legislative Assembly of Alberta;
 - (d) the councillor is absent from all regular meetings held during any period of 8 consecutive weeks, starting with the date that the first meeting is missed, unless subsection (2) applies;
 - (e) the councillor is convicted
 - (i) of an offence punishable by imprisonment for 5 or more years, or
 - (ii) of an offence under section 123, 124 or 125 of the Criminal Code (Canada);
 - (f) the councillor does not vote on a matter at a council meeting at which the councillor is present, unless the councillor is required or is permitted to abstain from voting under this or any other enactment;
 - (g) the councillor contravenes section 172;

- (h) the councillor has a pecuniary interest in an agreement that is not binding on the municipality under section 173;
- (i) the councillor uses information obtained through being on council to gain a pecuniary benefit in respect of any matter;
- (j) the councillor becomes an employee of the municipality;
- (k) the councillor is liable to the municipality under section 249;"

Therefore, it can be seen that there are several circumstances which could lead to a councillor's disqualification, even if the councillor does not have a pecuniary interest.

Q2: What actions are required once it is determined that a reason exists for disqualification?

If a reason for disqualification exists under section 174 of the *MGA*, then enforcement of the disqualification is dealt with under section 175 of the *MGA*, which states:

- "(1) A councillor that is disqualified must resign immediately.
- (2) If a councillor does not resign immediately,
 - (a) the council may apply by originating notice to a judge of the Court of Queen's Bench for
 - (i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a councillor, or
 - (ii) an order declaring the person to be disqualified from council,"

The *MGA* also provides the elector the option of bringing an application to have the councillor declared disqualified. An application for disqualification can be brought before the Court up to three years after the disqualifying event even if the councillor has finished their term and was not re-elected or did not run in the next election.

Q3: Are there any defences available to a Councillor who has been found to be disqualified?

There are several sections in the *MGA* which limit the reasons for a councillor's disqualification and a few which specifically deal with defences available.

One reason for disqualification as set out above is a councillor's absence from council meetings for a period of 8 consecutive weeks. However, this reason is limited by s.174(2) and s.174(3). If council passes a resolution which permits the councillors absence prior to the 8 week period lapsing, or if there are no regular meetings in the 8 week period then the councillor is not disqualified (s.174(2)). Secondly, if a councillor is away from a council meeting due to council business at the direction of council (s.174(3)). These limits on this reason for disqualification provide some flexibility to councillors who may have legitimate reasons to be away from council meetings while still ensuring that the importance of attendance at council meetings is safeguarded.

The *MGA* also provides a defence to certain reasons for disqualification in section 177 which was set out previously in the conflict of interest section.

Q4: What options are available to the Court in an application for Councillor disqualification?

If an application is brought before the Court for an order disqualifying a councillor, section 176 describes the options available for the Court.

"176(1) After hearing an application under this Division and any evidence, wither oral or by affidavit, that is required, the judge may

- (a) declare the person to be disqualified and a position on council to be vacant,
- (b) declare the person able to remain a councillor, or
- (c) dismiss the application."

Therefore, it can be seen that even if a reason for disqualification exists, the Court may determine that the councillor is permitted to remain on council. One factor that the Court may examine in determining the outcome of the application and whether or not the councillor will be able to remain on council is the proximity of the next election. The Court may determine that the decision should be left to the electorate to determine if the actions of the councillor should allow them to remain a councillor by re-electing them or that the councillor should be defeated in the next election due to those actions.

The Court has the authority to not only declare that a councillor is disqualified but also to order damages payable to the municipality for a pecuniary benefit the councillor received by virtue of being on council (s.176(2)). Therefore it is important to remember that there are serious consequences to behavior that results in disqualification and it is imperative that a councillor's actions reflect positively on the position of councillor and on Council in

general.

Q5: If a Councillor is disqualified, may they run for election of a Councillor in the future?

According to the *MGA*, if a councillor is disqualified pursuant to section 174, they are eligible to be elected in the next municipal election, provided they meet the other eligibility requirements.

Q6: What are the repercussions to Council decisions if it is found that a Councillor is disqualified or was disqualified while participating in Council decisions?

Under the *MGA*, decisions of council are protected even if it is found that one of the councillors is disqualified. Section 540 of the *MGA* states:

"540 No bylaw, resolution or proceedings of a council and no resolution or proceeding of a council committee may be challenged on the ground that

- (a) a person sitting or voting as a councillor
 - (i) is not qualified to be on council,
 - (ii) was not qualified when the person was elected, or
 - (iii) after the election, ceased to be qualified, or became disqualified,
- (b) the election of one or more councillors is invalid,
- (c) a councillor has resigned because of disqualification,
- (d) a person has been declared disqualified from being a councillor, ..."

It is important to point out that this section protects decisions based on the enumerated grounds which includes in the event that a councillor is disqualified. However, these grounds do not protect decisions from being challenged based on the conduct of the councillor, procedural issues dealing with the conduct of that councillor, or for any other grounds. The protection deals with challenges simply because a councillor was disqualified.

D. PERSONAL LIABILITY OF COUNCILLORS

1. Protection from Liability

Under the *MGA*, Councillors and employees and volunteers are generally not personally liable for loss or damage caused by things done or for things that they may omit to do in the performance or intended performance of their functions, duties or powers (*MGA* s. 535(2)). Municipalities themselves, however, could be liable for the acts of the persons who are performing duties under the direction of a municipality. **Further, this protection from personal liability for Councillors acting in the performance, or intended performance, of their functions is not a defence if the cause of action is defamation or if the individual involved was not acting in good faith.**

This Section will likely **not** provide protection for Councillors from actions brought pursuant to provisions of the *Act* which specifically impose liability on them. These Sections are discussed below.

2. Liability of Councillors

General Comments

In general terms, a Councillor is protected from liability where he or she is acting within the scope of his or her specified duties. Where a Councillor steps outside the scope of his or her duties and obligations or omits to fulfill them, a Councillor could be held personally liable for the resulting damage. Specific areas that could result in Councillor **personal liability** include the following:

Business Revitalization Zone Board

Where a Council member is appointed under a Business Revitalization Zone Bylaw, as a member of the Board of the Business Revitalization Zone, the Council member must make sure that expenditures that are made fall within the approved budget. If a Board member makes an expenditure that falls outside of the approved budget, the Board member is personally liable to the municipality for the expenditure (*MGA* s. 52(2)). If more than one member of the Board made the illegal expenditure, those members of the Board involved are jointly and severally liable to the municipality (*MGA* s. 52(3)).

The actual liability to the municipality can be enforced by the municipality, or even by a person liable to the Business Revitalization Zone tax. These provisions are more specific and contain greater detail than the previous civil liability sections in relation to Board members of Business Revitalization Zones (*MGA* s. 52(4)).

What remains somewhat unclear is whether a dissenting Board member could also be liable for an expense not authorized under the municipality's budget. If this occurs, it would seem that at the very least, a Board member dissenting should be sure to ensure that his or her dissent is recorded in the minutes.

Liability Where Disqualified

In the situation where an individual Council member is disqualified because of improper use of information to gain a pecuniary benefit, the Council member could be ordered to pay the sum of damages that a judge determines. (*MGA s. 176(2)*).

Expenditure of Municipal Funds

Generally speaking, municipalities can only make those expenditures that are included in their operating budgets or capital budgets or otherwise authorized by Council, or for an emergency or expenditures that are legally required to be paid (*MGA s. 248*). A Councillor who makes an expenditure that is not authorized as stated above is liable to the municipality for the monies so spent (*MGA s. 249(1)(a)*). As well, a Councillor who votes to spend money that has been obtained under a borrowing on something that is not within the purpose for which the money was borrowed, or votes to spend money that has been obtained under a grant for something that is not within the purpose of the grant, is liable to the municipality for the expenditure of the money so spent. (*MGA s. 249(1)(b)* and *249(1)(c)*).

Councillors can be jointly and severally liable to the municipality where more than one Councillor is involved in making the illegal expenditure (*MGA s. 249(3)*). Liability and collection of these illegal expenditures from Council members **personally** can be enforced by action undertaken by the municipality, by an elector or taxpayer of the municipality, or by a person who holds security under a borrowing made by a municipality (*MGA s. 249(4)*).

It is important for Council members to recognize that in the area of expenditure of municipal monies, Council should establish procedures to deal with the authorization and verification of expenditures that would not be included in the budget. The *MGA* provides for some flexibility for Council in dealing with expenditures not dealt with in the budget, so long as appropriate procedures are established (*MGA s. 248 (2)*).

Municipal Councillors should recognize that whereas under the previous legislation, emergency expenditures could be provided for if subsequently ratified by Council, under the present *MGA*, policies should be implemented dealing with the approval of emergency expenditures in particular situations. Municipalities should implement policies for the approval of expenditures outside of their budgets. It is only where a Councillor would act outside of this policy that he or she could be personally liable for the amount of an authorized expenditure that is outside of the budget.

The intent of the *MGA* is to ensure that where a Councillor operates within the established policy of the municipality, he or she will not be held personally liable.

Borrowing and Personal Liability

Where a Municipal Councillor votes in favour of a bylaw authorizing the borrowing, loan or guarantee of monies which cause the municipality to exceed its regulated debt limits, any Councillors that vote in favour of the borrowing can be held both jointly or personally liable for the amount of the borrowing (*MGA s. 275(1)*). Again, the municipality's action civilly against the Council member can be enforced by the municipality undertaking the action or by an elector or taxpayer or by a person who holds the security under the borrowing. Therefore, Councillors should be aware on an ongoing basis of the position of the municipality with regard to its current debt load when authorizing further borrowing or guarantees by bylaw.

3. Suggested "To Do" List

- Council should ensure that it has established procedures to authorize and verify expenditures that are not included in a budget.
- Before authorizing any borrowing or guarantee, Councillors should ensure they receive up to date information on their municipality's current debt load and what its regulated debt limit is. In these situations, the administration should be required to include this information in any agenda item going to Council relating to the authorization of the borrowing, loan or guarantee of monies.
- Councillors should review and familiarize themselves with the Section numbers relating to their liability.

4. Possible Limits to Protection from Liability

As indicated previously, the statutory protection set out in Section 535(2) does not extend to lawsuits where the allegation against the Councillor is defamation. Ultimately, the effect of Section 535 is to offer protection to a Councillor who acts in good faith and within the scope of his/her statutory mandate.

During the trial of the 1996 decision of *Clark v. The Municipal District of Rocky View and Larry Korschuk*, the Defendants' counsel brought a non-suit application at the end of the Plaintiff's case arguing that the case should be dismissed without the Court having to hear the Defendants' case. This application was brought on various grounds, including the argument that s. 535 of the *MGA* applied as an absolute defence to the Plaintiff's allegations against the Defendant, Korschuk, the municipality's former Reeve.

While the Court ultimately exonerated Mr. Korschuk at the end of the trial, in its ruling on the non-suit application, the Court stated that: "the mere fact that Mr. Korschuk was acting in what he believed to be the best interests of the municipality and within the scope of his authority, does not relieve a person from liability".

In making this statement, the Court referred to the 1994 Alberta Court of Appeal decision *Jackson and Parkview Holdings Ltd. v. Trimac Industries Ltd. et al.* where the Court of Appeal considered the limits of the common law defence applied to directors of corporations which, similar to the defence offered by s. 535, provides that where a director is carrying out his/her duties in good faith, he/she will not be held personally liable for certain torts. The *Jackson* case involved a director accused of inducing the breach of an employment contract. The Court of Appeal stated that the defence for directors will not extend to situations where a director takes advantage of his/her position to commit a wrong for his/her own ends.

While the Court's comment in the *Clark* decision was incidental to the Court's actual ruling, this comment does suggest that if a Court finds that a Defendant Councillor was misusing his/her authority or position or was otherwise involved in advancing his/her own agenda when he/she committed the alleged wrong doing, s. 535 protection may not be available.

E. PART 9 COMPANIES – LIABILITY AND CONFLICT WITH YOUR ROLE AS COUNCILLOR

1. Director Liability

A Part 9 Company is one that is formed, pursuant to the "Companies Act". These companies have objects other than the acquisition of gain.

In general, a director may incur personal liability for breach of any one of the following:

- The duty of care, diligence and skill;
- The duty to act honestly and in good faith with a view to the best interests of the organization;
- The duty to exercise powers for a proper purpose;
- The duty to disclose personal interests in the transactions of the organization; and
- The duty to avoid appropriation of opportunities available to the organization.

Directors are not bound to give continuous care and attention to the day to day running of the organization nor every detail of its actions. They are required to carry out their director functions attentively in the manner in which a prudent person would carry out these functions in comparable circumstances.

Under the Alberta *Environmental Protection and Enhancement Act* directors and officers of organizations can be held personally liable for offences under that *Act*. A common law defence of due diligence is generally available to the directors of organizations relating to the activities of that organization. However, that defence is not available if the directors of the organization have directed, authorized, consented to, acquiesced in or participated in the commission of an offence. Accordingly, directors must take their responsibilities seriously and take all reasonable steps to discharge the duties for which they are responsible.

Duties also arise out of the fiduciary obligations of directors to the organizations they serve. Fiduciary obligation is an ill-defined term but generally requires the utmost good faith and loyalty to the best interests of the organization. These duties generally require that directors not place themselves in a position of conflict between their duties to the organization and their own personal interests. This is accomplished mainly by disclosing the interest at the first opportunity and refraining from voting on the matter. In addition to

avoiding conflicts of interest, the fiduciary duty of a director to the organization also encompasses abuses of power, business judgments and the appropriation of opportunities.

While directors are not trustees of an organization in the true sense, they are still under a duty to carry out their functions and use their powers in the appropriate manner and for the proper purposes of the organization. They cannot act indiscriminately in carrying out their duties, and must use their best business judgment in analyzing facts to come to a reasonable decision. These two doctrines, the abuse of power doctrine and the business judgment doctrine, basically require that the directors carry out their duties carefully and appropriately.

In addition to these duties, a director may also incur liability under the *Income Tax Act* (Canada) if the organization fails to remit or withhold prescribed amounts. Further, Section 91 of the *Companies Act* provides that directors of an organization are jointly and severally liable to employees of the organization of all debts not exceeding six months wages payable to each employee for services performed for the organization while they are directors.

2. **Duty As Director of Company v. Role as Councillor**

A paradox is created when a Councillor agrees to hold the office of a director of a company owned partly or solely by a municipality. The paradox arises because even though a municipality has created or was in part responsible for creating a company with common goals to the municipality, on certain specific issues, the interests of the company may not always parallel the interests of the municipality. The director/Councillor may be in a conflict position because he or she will owe a duty of good faith to both organizations and to support one position may be adverse to the interests of the other entity. This conflict (or apparent conflict) may be less likely where all members of the board of a company are also all members of the Council of the municipality. The appearance of a conflict is more likely to arise where the directors on the corporate board are not entirely councillors from one municipality.

Under usual corporate law principles, the corporate director owes a duty to the company and that duty governs his/her conduct. However, where a municipality creates in whole or in part the company, the usual corporate law principles must be modified to reflect municipal law principles. Councillors who hold positions on boards of companies owned partly or solely by a municipality must always look at the "bigger picture" or the underlying municipal purpose for the creation of the company and make decisions in that framework.

The key to this paradox is to put the decision in the context of the particular capacity the Councillor/director is operating in (i.e. which hat they have on). It is critical for the Councillor to remember that when they are sitting as a Councillor on Council or on a Committee meeting, they owe a statutory duty under the *MGA* to always act in the public interest for the betterment of the municipality. When a Councillor is sitting on a corporate

board of directors for a company established in whole or in part by the municipality, the Councillor must keep in mind that the company was established by the municipality to promote the public interest of the municipality. The Councillor must discharge his duty as a corporate director with this paramount objective always in mind. The director/Councillor must also have regard to the specific corporate and statutory objectives and duties of the company.

F. COMMISSIONS

The MGA references three main types of Commissions that may be established: Municipal Planning Commissions (s. 626 (1)), Intermunicipal Planning Commissions (s. 626 (3)) and Regional Services Commissions (s. 602.01). Also mentioned are sporting commissions (s. 535.1).

1. Intermunicipal & Municipal Planning Commissions

Council by bylaw establishes a Municipal Planning Commission, and may by agreement establish an Intermunicipal Planning Commission, (s. 626). An Intermunicipal Planning Commission is deemed to be a Municipal Planning Commission for the purposes of Part 17 of the *MGA* (Planning and Development). Members are appointed by Council and a member of the Municipal Planning Commission cannot be a member of the Subdivision and Development Appeal Board (s. 627(4)).

A Municipal Planning Commission may be authorized to be the Subdivision and/or Development authority and is then able to exercise those powers and perform related duties on behalf of the municipality (s. 623, s. 624).

Note that a Municipal Planning Commission is authorized, as are subdivision and development authorities, to deliberate and make decisions in a meeting closed to the public (s. 197(2.1)). Actions taken by Municipal Planning Commissions must be consistent with the province's land use policies (s. 622(1)).

2. Regional Services Commissions

Regional Services Commissions are established by provincial regulation. This regulation will specify the name of the commission, specify the municipal members and specify the services the commission is authorized to provide.

There is significant Ministerial involvement in the establishment and management of a Commission. This characteristic has, in recent times, discouraged the desire of potential member municipalities of a Commission to pursue this form of organization. For example:

- The wording of the Regulation that establishes the Commission, and any subsequent amendments thereto, may involve extensive negotiations amongst the member municipalities and will include the Minister. Since the Minister has the final say on what is contained in the Regulation, the provisions ultimately contained in the Regulation may conflict with the intentions of the member municipalities.
- The Minister may make an order directing the Board of Directors of a Commission to

take any action that the Minister considers proper in the circumstances if he is of the opinion that the Commission is being managed in an irregular, improper or improvident manner.

- The Minister also has the power, at any time, to appoint an official administrator to supervise a Commission and its Board.
- The Minister may require an inspection relating to any matter connected to the management, administration or operation of a Commission and the Minister may recommend to the Lieutenant Governor in Council that a Commission be disestablished and wound up.
- In each year that a Commission operates, operating and capital budgets must be prepared. If a Commission fails to prepare an acceptable budget, the Minister may establish a budget for the Commission in his discretion. A Commission must have audited financial statements prepared on an annual basis. A copy of these audited financial statements must be submitted to the Minister

A Council may, by bylaw, authorize the municipality to enter into an agreement with a Regional Service Commission or Intermunicipal Service Agency (*MGA* s. 625) to which the municipality can delegate any of its subdivision and development authority, powers, duties or functions.

In Alberta, a Regional Services Commission is a corporation (*MGA* s. 601.03) having natural person powers (*MGA* s. 602.1), except to the extent that they are limited by the *MGA* or any other enactment. Section 73, which prevents a municipality from controlling a for-profit corporation, (unless approved in the regulations) does not apply to Commissions. Note though, that the s. 250 restrictions on investments do apply to Commissions the same way they do to municipalities.

Directors

The Directors of the Board of a Commission are generally persons appointed by the municipality, but this depends on the bylaws of the commission. A particular person may be designated to make the appointment and the Province may as well appoint persons in some instances. A director who represents a municipality on the Board must be a Councillor (s. 602.04).

The fiduciary duty of a director as it has evolved in the common law has come to require a director to characterize utmost loyalty, honesty and good faith. These characteristics have become generally known as the "fiduciary duties". While these duties originally applied only to trustees, Courts have recognized the power directors can exercise over the entities they manage and that the position of a director was one of "trust and confidence". Therefore, the Courts have held that directors owe fiduciary duties.

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There is a duty to be competent as well. A Director needs to inform themselves about matters before the Commission, and cannot blindly rely on recommendations from administration or experts.

The fiduciary duties of the Directors are generally owed to the entity that the Directors serve (such as the Commission), and not to any one or more of the members (or shareholders, in the business corporation example). However, municipal councillors who are appointed to the Commission as the representative of the member municipality must still exercise their fiduciary duties as a councillor under s. 153 of the *MGA*. This applies when they are sitting as a councillor and dealing with matters relating to the Commission (see *Duties of Corporate Director v. Councillor* in part 2 of Section D of this package).

Delegation

The Board of a Regional Services Commission may delegate a number of powers, duties or functions, but cannot delegate:

1. the power or duty to pass bylaws;
2. the power to expropriate;
3. the power to authorize borrowing;
4. the power to adopt budgets;
5. the power to approve financial statements.

Meetings

Similar to municipal councils, the Board and its committees must conduct their meetings in public unless the matter comes within an exception to disclosure listed in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*. As with councils, no resolution or bylaw can be passed at the meeting except a resolution to revert to a meeting held in public (s. 602.08).

Personal Liability of Directors

There a number of instances when a Director may become personally liable to the Commission such as when:

1. a Director makes an expenditure that is not included in a budget or otherwise authorized to be paid, (s. 602.25). Emergency expenditures or expenditures legally required are exceptions (s. 602.24). Policies for making unbudgeted expenditures are

required to be in place, (s. 602.24 (2));

2. borrowed funds are spent on something outside of what the funds were borrowed for;
3. grant funds are spent on something outside of what the funds were borrowed for;
4. a Director votes to authorize the Commission to make a borrowing that causes the Commission to exceed its debt limit, (s. 602.3). Liability in these circumstances may be enforced by the Commission, a member of the Commission, a taxpayer of a Commission member or person holding security under a borrowing made by the Commission, (s. 602.3 (3)).

Inspection by Minister

A Commission member can instigate an inspection by the Minister pursuant to Section 602.35(1)(b) of the *MGA*. If such an inspection occurs, the member of the Commission that requested the inspection is entitled to receive a copy of the report to the Minister. Based upon the inspection, if the Minister considers that a commission is managed in an irregular, improper or improvident manner, the Minister has a broad discretion to direct the Board of the commission. This discretion can extend to the dismissal of the Board or any director under Section 602.36(2).

G. ACCESS TO INFORMATION: THE IMPACT OF THE FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

I. What is the *Freedom of Information and Protection of Privacy Act*?

The *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25 (*FOIPP Act*) came applicable to municipalities as of October 1, 1999. This legislation is the main vehicle for access of information to municipal documents.

The *FOIPP Act* is based on the principles of accountability of government and the protection of privacy. The stated purposes of the Act include:

- to allow persons a right of access to the records in the custody or under the control of a public body, subject to the exceptions set out in the Act;
- to control the manner in which government collects, uses and discloses personal information;
- to allow individuals a right of access to personal information about themselves held by the public body;
- to allow individuals a right to request corrections to personal information about themselves; and
- to provide for independent review of decisions made by public bodies, and for resolution of complaints under the Act, through the use of an independent Commissioner.

II. Access and Disclosure of Records

The starting position for any request for information under the *FOIPP Act* is that an applicant has a right to access all or any part of a record in the custody or under the control of the public body. A public body can only refuse to disclose a record if the *FOIPP Act* contains a specific exception which applies.

The decision as to whether information is to be disclosed is left to the "head of the public body." An appeal of a decision may be made to the Office of the Information and Privacy Commissioner, removing exclusive control over the release of information from municipalities.

An applicant has a right of access to any record in the custody or under the control of a public body. "Record" is defined as a record of information in any form and includes books, documents, maps, letters, papers and any other information that is written, photographed, recorded or stored in any manner. A public body has "custody" of a record when is in the physical possession of the public body and has "under control" of a record when the public body

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has the authority to manage and use the record. As such, handwritten notes by municipal Councillors and other records obtained and maintained by Councillors in the course of their duties may be considered to be in the custody or under the control of the municipality and may be accessible to the public.

III. Key Exceptions to Disclosure

Division 2 of the *FOIPP Act* sets the "Exceptions to Disclosure". There are mandatory and discretionary exceptions. Mandatory exceptions are things that a public body "must" refuse to disclose. Discretionary exceptions are those that a public body "may" refuse to disclose.

Common mandatory exceptions to disclosure include:

- disclosure that would reveal the trade secrets or commercial, financial, labour relations, scientific or technical information of third party that was provided in confidence to the public body and that would reasonably be expected to be harmful to the third party if disclosed (Section 16); and
- disclosure of personal information that would be an unreasonable invasion of a third party's personal privacy (Section 17). "Personal information" is defined as including, but is not limited to, a person's name, contact information, race, ethnicity, religion, sex, someone else's opinion on that person, or any other information about an identifiable individual

Common discretionary exceptions to disclosure include:

- disclosure that would be harmful law enforcement, which includes policing and any investigation (including a bylaw enforcement) that could result in a penalty or fine (Section 20);
- disclosure that would be harmful to intergovernmental relations (Section 21);
- disclosure that would reveal a draft of a resolution, bylaw or other legal instrument of the local public body or the substance of deliberations held in camera (Section 23);
- disclosure that would reveal advice, proposals, recommendations, plans, policy options, consultations or other deliberations developed by or for the public body (Section 24);
- disclosure that would be harmful to the economic interest of the public body (Section 25);
- disclosure that would reveal information that is the subject of solicitor-client, litigation or some other legal privilege (Section 27); or
- information that is or will be in the near future readily available to the public (Section 29).

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IV. In Camera Meetings

Section 197 of the *Municipal Government Act* states that Council and Council Committees shall hold all meetings in public except in the case of deliberations for planning committees or where a matter falls within the one of the exceptions to the *FOIPP Act*. The main areas for Council and Council Committees to go "in camera" for all or a part of a meeting under an exception to *FOIPP Act* include:

- legal advice, or information that is subject to solicitor/client privilege;
- employment matters, as they relate to personal information;
- complaints respecting breaches of municipal bylaws, where the complainant's identity is to remain confidential;
- personal information; or
- draft resolutions, bylaws or other legal instruments by which local public body acts, or the substance of deliberations of in camera meetings.

It is very important for Council to ensure that discussion is "in camera" even if members of the public are not present. It is also important to ensure that Council Committees follow the procedure of voting to go "in camera" to discuss these issues.

When receiving agenda packages, it is important to ensure that documents are not disclosed that contain legal advice or personal information. As such, Councillors may wish to separate the documents in their agenda packages (if not already done so) into documents which relate to items on the public portion of the Council agenda and those items on the "in camera" portion of the Council agenda.

It is important that Councillors are aware that disclosure of confidential information is a breach of the Councillor's duties pursuant to section 153 of the *Municipal Government Act*. Use of information obtained through being on Council to obtain a pecuniary benefit in respect of any matter would result in disqualification (*Municipal Government Act*, s.174(1)(i)). There is also a common law argument that disclosure of confidential information contrary to the municipality's interests could be a breach of a Councillor's fiduciary duty to the municipality, resulting in personal liability for any detriment.

V. The Implications of the *FOIPP Act* on Members of Council

As a member of Council, the application of the *FOIPP Act* means that:

- Access to records of the municipality or any other local public body by members of Council is no greater than any other individual. Members of Council are only privy to

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information provided to it by administration as is necessary for their council duties. Access to any other records for personal or other use is governed by the *MGA* and the *FOIPP Act*. Furthermore, it is important that Council recognizes that they are officers of the municipality and as such are under the same obligations and restrictions as administration regarding access, use and disclosure of municipal records.

- Handwritten notes and other files by members of Council may be accessible to the public under the *FOIPP Act* or, in certain situations, the litigation process. As such, Council members should use caution on individual commentary in handwritten notes and should tailor such notes and files under the presumptions that such a record may be disclosed to the public.
- As a member of Council, all records and files in his or her possession related to his or her public duties may be accessible to the public under the *FOIPP Act*. It is recommended that Council members reduce the number of documents held at the source of the information and only that necessary to keep proper records.
- It is important that member of Council are aware what information is being provided confidentially or obtain "in camera". As a member of Council, each individual has certain obligations in both statute and at common law to hold such information confidential and to not disclose such information to the public or use it for a personal advantage.

H. CASE STUDIES

1. DISQUALIFICATION

Re Guimond and Sornberger (1980) (Alberta Court of Appeal)

FACTS:

Three members of Council of the Town of Hinton were employed by the Town's major employer. They, in common with the other members of Council, voted to reject two proposed bylaws dealing with Town planning in areas close to the employer's plant site. Their employer, at a public meeting, objected to the proposed bylaws as adversely affecting its operations. The employer did not put pressure on the employees to vote against the proposal. An order disqualifying the appellants and declaring their seats vacant was originally granted. The councillors appealed their disqualification.

HELD:

The appeal was dismissed, and disqualification upheld. Where a municipal councillor votes on a matter which financially impacts his employer, the councillor has an pecuniary interest in the matter. Once it has been found that the councillor has such an interest, an irrebuttable presumption of bias is raised. It is irrelevant that the employer did not put pressure on the employee to vote against the proposal. The prohibition is absolute.

The community of interest exception was not applicable because the councillor's interests in the matter were different from that of other persons in the Town. The councillors could be consciously or unconsciously interested in the continued success of their employment, and in being looked upon favourably by their employer.

The councillors failed to meet the onus of proof to show that they made a bona fide error of judgment of acted inadvertently so as to enable the Court to dismiss the application for disqualification.

***Note:** The *Municipal Government Act* provisions contain more detail on "deemed" financial interests of others (including employers) than the legislation in place at the time of the *Guimond* case.

WHY THIS CASE IS IMPORTANT:

This case is a good example of the limitation of the community of interest exemption. The Court applied this exemption is applied very narrowly and that even the slightest difference between the general public and a councillor may be enough so that the exemption will no longer apply.

Secondly, this case demonstrates the issues that may arise when council makes a decision impacting a major employer. A councillor must be cautious in participating in the discussion and decision of an issue that may affect their employer even indirectly.

2. BIAS

Petherbridge v. Lethbridge (city), (2000) (Alberta Court of Queen's Bench)

FACTS:

The applicant, Petherbridge, owned residential property immediately adjacent to land in the southeast sector of Lethbridge which was subject to two separate proposed bylaws for an amendment to the zoning of the property to allow for a commercial development. One of the councillors, Martin, acted as a consultant in his private capacity to the party seeking the rezoning. Martin declared his interest at the hearings of both bylaws but remained in the gallery at the public meetings to advise his client. The first bylaw was defeated but the second bylaw was passed and the land was rezoned to Highway Commercial and Public Building District. Petherbridge made an application for judicial review claiming, among other things, that there was a reasonable apprehension of bias due to Martin advising his client during the public meeting.

HELD:

The Court dismissed the application of Petherbridge. The Court examined if the presence of one councillor in a public hearing, acting in their private capacity could affect the impartiality of the remaining members of council. As well, it was examined if the presence of that one councillor could make it appear that the decision or the procedure was unfair and therefore, if there was a reasonable apprehension of bias.

As the decision being reviewed was made by council in their legislative role rather than in a quasi-judicial role, the Court determined that the test for bias should be relaxed a small degree and stated at paragraph 51:

"Applying the test to these facts, the question is whether a reasonably and right minded person, applying himself or herself to the question and obtaining the required information, viewing the matter realistically and practically – and having thought through – thinks that it is more likely than not that the Council, whether consciously or unconsciously, would decide fairly."

Applying this test to the facts in this situation, the Court determined that a reasonable and right minded person would think that Council made its decision fairly.

WHY THIS CASE IS IMPORTANT:

This case demonstrates the problems that may arise when an individual acts in both a private capacity and as a councillor. Obviously there is no requirement that once you are elected to council the outside business interests cease, but this case demonstrates the importance of keeping these two worlds as separate as possible. If it is impossible to keep your private business interests separate from your responsibilities as councillor, it is important to ensure that your interests are declared and that you take no part in the issues as a councillor and that your conduct in your private capacity does not lend itself to a reasonable apprehension of bias according to the test enunciated in this case.

3. MUNICIPAL LIABILITY

Bowes v. Edmonton (City), (2005) Alberta Court of Queen's Bench

FACTS:

This case relates to the slope instability of three residences near the bank of the North Saskatchewan River. The incident attracted national media attention, as three executive style homes were destroyed in October, 1999.

The Claimants brought an action against the City for damages for negligence and nuisance. In 1977 the City had commissioned geographical reports with respect to construction of a municipal road in the vicinity of the lands. The report warned of the possibility that there could be a landslide if more construction took place on the lands. The lands were developed, and at the time of development the developer had provided geotechnical reports indicating that the lands were generally suitable for development. The lands were developed and the Claimants subsequently purchased individual lots and received permits from the City to construct their homes. The Claimants were not informed about the original 1977 geotechnical report suggesting that that land may be unstable.

HELD:

The Court of Queen's Bench Justice Clackson found that the City of Edmonton could not be found liable for the claims brought by the property owners because of a limitations issue; that is, the claims were brought more than 10 years after issuance of the relevant City permits and approvals. Justice Clackson went on to note, however, that if the claims had not been barred by the limitations issue, he would have found the City to be liable for negligent issuance of the permits and approvals. The City owed a duty of care to the Claimants and should have disclosed the original report.

{02/10/2007 ,E0622503.DOC;1}

Justice Clackson stated:

- The City is not a guarantor of the safety or suitability of a proposed development and is not responsible for every potential latent defect;
- The City is obliged to conduct itself carefully in granting or refusing permits;
- The City should have reviewed the materials in its possession bearing on the landowners applications and should have disclosed the 1977 Hardy Report to the applicants. The report would have caused a careful municipality to require a more detailed geotechnical opinion which would justify ignoring the 1977 Hardy Report.
- The City should have disclosed any information in its possession which might bear on the risk of development.

WHY THIS CASE IS IMPORTANT:

If a municipality has an engineering report within its possession indicating that there are restrictions on development, or that development may not be feasible, the municipality will be best protected if that report is disclosed and considered, where relevant, at every stage of development. This case also underscores the critical importance of requiring expert reports to justify development in the vicinity of environmentally sensitive lands.

Note: this case has been appealed to the Court of Appeal, and a decision is expected shortly.

4. JUDICIAL DEFERENCE GIVEN TO LEGISLATIVE DECISIONS MADE BY MUNICIPALITIES

Urban Development Institute v. Leduc (City of), (2006) Alberta Court of Queen's Bench

FACTS:

The City of Leduc enacted a bylaw that imposed an off-site levy on new developments and subdivisions; the costs included arterial roadways. The City used a "full cost recovery" approach, requiring developers of undeveloped lands to pay for all arterial road components that would be required for traffic resulting from new development, even though traffic generated from existing development would also use the arterial road components (eg. the third and fourth lanes of arterial roads, together with other related infrastructure). Urban Development Institute brought an action to quash the bylaw as being outside the City's authority; Urban Development Institute argued that as traffic from existing development would also travel on the arterial roads, new development should not pay the entire cost of the arterial road component.

HELD:

The Court did not accept the Applicant's submission that the standard of review should be correctness. Instead, the Court emphasized the line of cases supporting more deference should be given to the legislative decisions of municipalities. Justice Agrios stated:

At the outset the first determination required was the appropriate standard of review. Counsel for the Applicant suggested "correctness", I held that this was patently an error. The bylaw is clearly a legislative function of the City, and the Supreme Court of Canada in recent decisions has mandated that municipal bylaws should be reviewed on a standard of "great deference". This approach has been followed by the Alberta Court of Appeal, and I have accepted the authorities provided by the City as noted below are appropriately applied to this judicial review.

Having made this determination that the standard to apply was one of great deference, counsel for the city stated for the bylaw to be declared *ultra vires*, the approach or model used by the City had to be irrational. The bylaw is not irrational. I have once again accepted the City's position and from the examples set forth in oral argument I find the bylaw is most rational.

WHY THIS CASE IS IMPORTANT:

When a municipal council enacts bylaws pursuant to their powers as elected officials courts will show great deference and only set aside a bylaw if there is a "clear demonstration" that the decision is *ultra vires* (or outside of their powers).

5. IMPORTANCE OF PUBLIC MEETINGS

***London (City) v. RSJ Holdings Inc.*, 2007 Supreme Court of Canada**

FACTS:

RSJ Holdings Inc. was a landowner affected by a bylaw passed by the City which provided for a one-year freeze on all development in a particular corridor of the city. The bylaw was passed after two closed meetings and a short eight-minute public session, during which council passed 32 bylaws, without public debate or discussion. RSJ

{02/10/2007 ,E0622503.DOC;1}

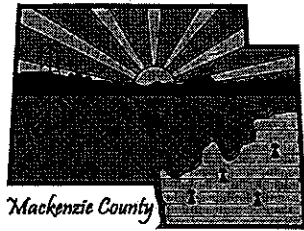
Holdings applied for an order quashing the bylaw on the grounds that the City had not met its obligations mandated by statute that all meetings be held in public. The City argued that the meeting fell within an exception in the Municipal Act that allowed an interim bylaw to be passed without notice and without a public hearing. The Court of Appeal had allowed the appeal and quashed the bylaw. The City appealed the decision to the Supreme Court.

HELD:

The Supreme Court of Canada dismissed the appeal and held that quashing the bylaw was the appropriate remedy. The interim control bylaw provisions did not relieve Council of their obligation to hold public meetings. The existence of sections in the Act which permitted council to dispense with notice do not authorize the holding of a closed meeting.

WHY THIS CASE IS IMPORTANT:

This case demonstrates the importance of public meetings. The Court emphasized that municipal government legislation which requires public meetings reflects the legislature's choice to have transparency and accountability in the decision-making process of local governments. When Council makes decisions in secrecy they will not be given deference, even when such decisions are *intra vires* (or otherwise within Council's powers). The Supreme Court of Canada also recognized that a public meeting should be used for substantive debate, not simply to "rubber stamp" a decision effectively made *in camera*.



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Election of Reeve

BACKGROUND / PROPOSAL:

Call for nominations:

First Call: _____

Second Call: _____

Third Call: _____

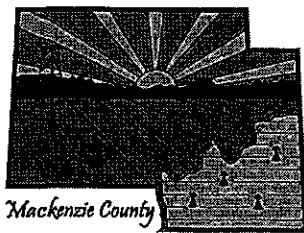
OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

_____ was elected/acclaimed as Reeve for Mackenzie County for the period October 24, 2007 to October 2008.

Author: C. Gabriel **Review By:** _____ **CAO** _____



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Election of Deputy Reeve

BACKGROUND / PROPOSAL:

Call for nominations:

First Call: _____

Second Call: _____

Third Call: _____

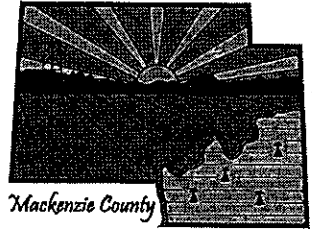
OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

_____ was elected/acclaimed as Deputy Reeve for Mackenzie County for the period October 24, 2007 to October 2008.

Author: C. Gabriel **Review By:** _____ **CAO** _____



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Appointment of Council Members to Council Committees, Boards and Task Forces

BACKGROUND / PROPOSAL:

A current list of Council Committees, Boards, and Task Forces is attached.

OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

Appointments to be made by Council to the various Boards and Committees.

Author: C. Gabriel Review By: _____ CAO _____



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2007 - 2008

AGRICULTURAL LAND-LAND USE PLANNING COMMITTEE (TOR)

Councillor _____
Councillor _____
Councillor _____ (alt)

Eva
William Kostiw, CAO
Julia

AGRICULTURE SERVICE BOARD

Councillor _____ Wayne Thiessen
Councillor _____ Eric Jorgenson
Joe Peters

Grant Smith, Agricultural Fieldman
William Kostiw, CAO
Mark

ASSESSMENT REVIEW BOARD (Bylaw 266/01)

Councillor _____
Councillor _____ (alt) _____
_____ (alt)

Carol Gabriel, Executive Assistant

COUNTY BUILDING TASK FORCE

Councillor _____
Councillor _____
Councillor _____

Mayor Committee
William Kostiw, CAO

FINANCE COMMITTEE (TOR)

Councillor _____
Councillor _____
Councillor _____
Councillor _____

Joulia Whittleton, Director of
Corporate Services
William Kostiw, CAO

HIGHWAY 88 TASK FORCE

All Council

William Kostiw, CAO

INTERMUNICIPAL DEVELOPMENT PLAN COMMITTEE

Councillor _____
Councillor _____

Julia
Eva
William Kostiw, CAO

MACKENZIE HOUSING MANAGEMENT BOARD

Councillor _____

N/A
AK



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2007 – 2008

MACKENZIE LIBRARY BOARD (TOR)

Councillor _____
Councillor _____

Anne Martens (Feb. 09)
Judy Ostrowski (Oct. 09)

Joulia Whittleton, Director of
Corporate Services (liaison)

MEDICAL PROFESSIONAL TASK FORCE

All Council

Joulia Whittleton, Director of
Corporate Services
William Kostiw, CAO

MUNICIPAL PLANNING COMMISSION (Bylaw 563/06)

Councillor _____
Councillor _____

Eva Schmidt, Planning Supervisor
Eva

OPERATIONS COMMITTEE (TOR)

All Council

William Kostiw, CAO
mark

REGIONAL WATER COMMITTEE

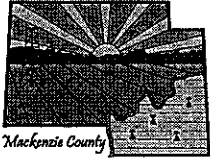
Councillor _____
Councillor _____

William Kostiw, CAO
John Klassen, Manager of Utilities
& Facilities

RURAL WATER SERVICES BOARD (TOR)

Councillor _____
Councillor _____

William Kostiw, CAO



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2007 – 2008

SUBDIVISION & DEVELOPMENT APPEAL BOARD (Bylaw)

Councillor _____ Carol Gabriel, Executive Assistant
Councillor _____ (alt) _____
_____ (alt)

UPPER HAY RECREATIONAL HUNTING & FISHING ADVISORY COMMITTEE (TOR)

Councillor _____ William Kostiw (liaison)

Jerry Chomiak
Ellis Forest
Stuart Watson
FV Conservation Officer
HL Fish & Wildlife Officer

VETERINARY ADVISORY COMMITTEE (TOR)

Councillor _____ Grant Smith, Agriculture Fieldman

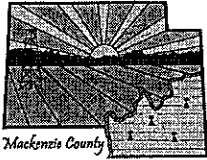
Joe Peters (ASB Rep)
Roger Toews (Grazing Reserve Rep)

WATERFRONT DEVELOPMENT TASK FORCE

Councillor _____
Councillor _____
Councillor _____ William Kostiw, CAO
Councillor _____ *John, Mark, Lou Julia*

WEED CONTROL APPEAL BOARD

All Council (except ASB members) William Kostiw, CAO



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2006 – 2007

AGRICULTURAL LAND-LAND USE PLANNING COMMITTEE (TOR)

Reeve Neufeld
Deputy Reeve Sarapuk
Councillor Froese (alternate)

Paul Driedger, Director of Planning
& Emergency Services
William Kostiw, CAO

AGRICULTURE SERVICE BOARD

Councillor Newman
Deputy Reeve Sarapuk

Wayne Thiessen
Eric Jorgenson
Joe Peters

Grant Smith, Agricultural Fieldman
William Kostiw, CAO

ASSESSMENT REVIEW BOARD (Bylaw 266/01)

Councillor Braun
Councillor Wardley (alternate)

Wally Schroeder
Daryl Zielsdorf
David Driedger (alternate)

Carol Gabriel, Executive Assistant

COUNTY BUILDING TASK FORCE (until complete)

Councillor Driedger
Councillor Newman
Councillor Braun

Paul Driedger, Director of Planning
& Emergency Services
William Kostiw, CAO

FINANCE COMMITTEE (TOR)

Reeve Neufeld
Deputy Reeve Sarapuk
Councillor Watson
Councillor Braun

Joulia Whittleton, Director of
Corporate Services
William Kostiw, CAO

HIGHWAY 88 TASK FORCE

All Council

William Kostiw, CAO

INTERMUNICIPAL DEVELOPMENT PLAN COMMITTEE

Reeve Neufeld
Councillor Watson

Paul Driedger, Director of Planning
& Emergency Services
William Kostiw, CAO

MACKENZIE HOUSING MANAGEMENT BOARD

Councillor Driedger

Dave Neufeld
Wally Schroeder
Daryl Zielsdorf
Ray Toews

N/A



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2006 – 2007

MACKENZIE LIBRARY BOARD (TOR)

Councillor Thompson
Councillor Wardley

Lucille Labrecque
Treena Ward
Beth Kepler
Anne Martens
Wally Schroeder
Judy Ostrowski
David Peters

Joulia Whittleton, Director of
Corporate Services (liaison)

MEDICAL PROFESSIONAL TASK FORCE

All Council

Joulia Whittleton, Director of
Corporate Services
William Kostiw, CAO

MUNICIPAL PLANNING COMMISSION (Bylaw 563/06)

Councillor Braun
Councillor Froese

Jack Eccles
Manfred Gross
Daryl Zielsdorf

Eva Schmidt, Planning Supervisor
Paul Driedger, Director of Planning
& Emergency Services

OPERATIONS COMMITTEE (TOR)

All Council

John Klassen, Manager of Utilities
& Facilities
Paul Driedger, Director of Planning
& Emergency Services
Joulia Whittleton, Director of
Corporate Services
William Kostiw, CAO

REGIONAL WATER COMMITTEE

Reeve Neufeld
Councillor Watson

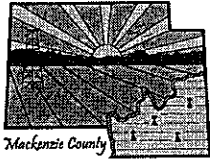
William Kostiw, CAO
John Klassen, Manager of Utilities
& Facilities

RURAL WATER SERVICES BOARD (TOR)

Councillor Newman
Councillor Driedger

Peggy Shirt
Daryl Zielsdorf
Bill Boese
John Simpson
David Froese
George Teichroeb
Frank H. Wiebe

William Kostiw, CAO



MACKENZIE COUNTY
BOARDS, COMMITTEES & TASK FORCES
2006 – 2007

SUBDIVISION & DEVELOPMENT APPEAL BOARD (Bylaw)

Deputy Reeve Sarapuk
Councillor Thompson (alternate)

Wally Schroeder
Danny Friesen
David Driedger (alternate)

Carol Gabriel, Executive Assistant

UPPER HAY RECREATIONAL HUNTING & FISHING ADVISORY COMMITTEE (TOR)

Councillor Newman

Jerry Chomiak
Ellis Forest
Allen Planinga (alternate)
Danny Friesen
Stuart Watson
FV Conservation Officer
HL Fish & Wildlife Officer

William Kostiw (liaison)

VETERINARY ADVISORY COMMITTEE (TOR)

Councillor Driedger

Maarten Braat
Henry Friesen
Joe Peters (ASB Rep)
Roger Toews (Grazing Reserve
Rep)

Grant Smith, Agriculture Fieldman

MD WATERFRONT DEVELOPMENT TASK FORCE

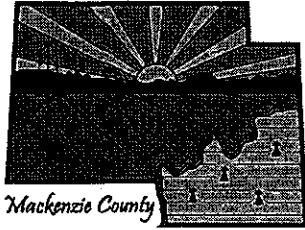
Councillor Driedger
Councillor Watson
Councillor Newman
Councillor Braun

Paul Driedger, Director of Planning
& Emergency Services
William Kostiw, CAO

WEED CONTROL APPEAL BOARD

All Council (except ASB members)

William Kostiw, CAO



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Appointment of Members at Large to County Boards/Committees

BACKGROUND / PROPOSAL:

See attached summary along with the letters of application to the various County boards and committees.

OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

Appointments to be made by Council to the various Boards and Committees.

Author: C. Gabriel **Review By:** _____ **CAO** _____

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**MEMBERS AT LARGE APPOINTMENTS
TO VARIOUS COUNTY BOARDS/COMMITTEES
OCTOBER 2007**

Municipal Planning Commission (1 Year Term)

3 Positions Available (High Level, La Crete, Fort Vermilion – if possible)

- Jack Eccles (La Crete) ~~+++~~ +++
- Anthony Thiessen (La Crete)
- Wally Schroeder (La Crete)
- Daryl Zielsdorf (Fort Vermilion)
- Manfred Gross (Fort Vermilion) ~~+++~~ +++
- Beth Kappelar (High Level Rural) ~~++++~~ +++

Mackenzie Housing Management Board (1 Year Term)

4 Positions Available (2-La Crete, 2-Fort Vermilion)

- Dave Neufeld (La Crete) ~~+++~~ +++
- Wally Schroeder (La Crete) ~~+++~~ +++
- Daryl Zielsdorf (Fort Vermilion) ||||
- Jim Thompson (Fort Vermilion) +++
- Sharon McLean (Fort Vermilion) ~~+++~~ +++

Assessment Review Board (One Year Term)

2 Positions Available

- Wally Schroeder (La Crete) *Daryl Z.*

Subdivision & Development Appeal Board (One Year Term)

3 Positions Available (one is an alternate)

- Beth Kappelar (High Level Rural) *conflict w/ MPC*

*advertise for
all 3.*

Mackenzie Library Board (Three Year Term)

5 Positions Available

- Beth Kappelar (High Level Rural)
- Wally Schroeder (La Crete)
- Daryl Zielsdorf (Fort Vermilion)
- Jim Thompson (Fort Vermilion)

Rural Water Services Board (Three Year Term)

8 Positions Available

- Beth Kappelar (High Level Rural)
- Daryl Zielsdorf (Fort Vermilion)

Upper Hay Recreational Hunting & Fishing Advisory Committee (Three Year Term)

3 Positions Available

- Mike Kowal (High Level Rural)
- Jake J. Wolfe (La Crete)

Veterinary Advisory Committee (Three Year Term)

2 Positions Available

- Beth Kappelar (High Level Rural) |||| (4)
- Maarten Braat (Fort Vermilion) ~~||||~~ ||| (9)
- Henry G. Friesen (Fort Vermilion) ~~||||~~ ||| (8)

Fort Vermilion Oct 15 2007

Dear Council.

As per your advertisement in the local papers over the last two weeks, I apply to be chosen to sit on the Veterinary advisory Board.

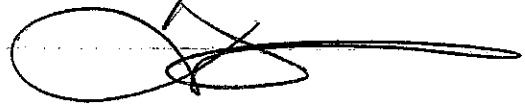
My name is Maarten Braat living with my wife Mia on the Farm North of Fort Vermilion for the last 25 years.

I have been and still am involved in various boards. The Veterinary advisory Board has always have my interest.

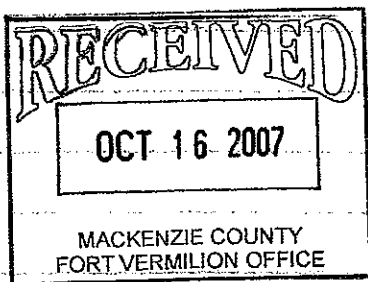
I have served on this board previous and have a desire to continue.

Thank you

Yours



Maarten Braat
Box 564.
Fort Vermilion.



Jack A. Eccles, CRA

10510 - 106 Street, Box 823
La Crete, Alberta T0H 2H0
Phone 780-926-6317 Fax 780-928-4067
Email: jeccles@nlgas.net

October 5, 2007

Municipal District of Mackenzie # 23
P.O. Box 640
Fort Vermilion, Alberta
T0H 1N0

Attention: Carol Gabriel, Executive Assistant

Dear Mrs. Gabriel

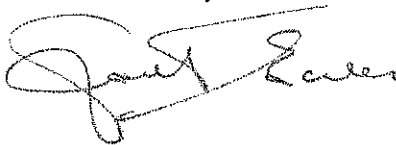
Re: Municipal Planning Commission

Please accept this letter as my application for the position of member of the Municipal Planning Commission.

Over the past year I have served on the Municipal Planning Commission and I have enjoyed the opportunity to work with the planning staff. I fully support the Municipal District being developed in an orderly manner. I believe my experience with Northern Lights Gas Co-op Ltd. as well as being a Real Estate Broker and a Residential Appraiser have given me insight into the necessity of proper planning.

Thank you for your consideration.

Yours truly,



Jack A. Eccles

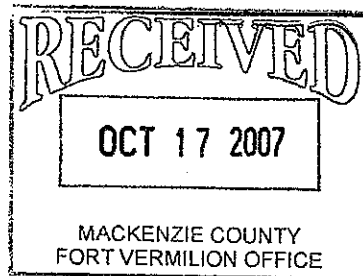
Oct 17/2007

I Henry S. Friesen
Would like to stay on the Vet
Advisory Board.

Henry S. Friesen

Box 376 Fort Vermilion Alta.

780 927 3608



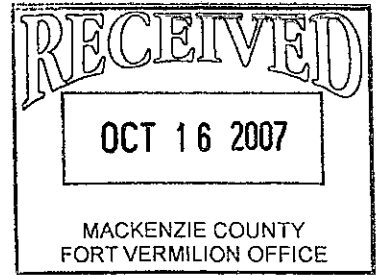
Attention: Carol Gabriel

From Manfred Cross

Box 707

Fort Vermilion, AB

780-927-4684



Please be advised that I wish to let my name stand for Municipal Planning Commission.

I have been on the commission for the last 2 years.

I have had experience in various positions on church councils, and also am a director on the Mackenzie Applied Research Association board.

Thank you for ~~consideration~~ ^{your consideration} in this matter. If you require any more information please do not hesitate to call me at 780-927-4684

Manfred Cross

-98- Manfred Cross

Oct 9/07

Attn: Carol Gabriel, Executive Assistant
Mackenzie County

Dear Carol,

Please accept this as my request to continue serving on the Mackenzie County Library Board for the next 3 years.

I feel we have made great strides in the past 3 years ~~on~~ a Board, ^{and} ~~I~~ that my experience would be beneficial in helping the Board move forward.

Thankyou for your consideration,

Beth Kappeler

Box 1666
High Level, AB

(780) 926-4674

Oct 9/07

Attention: Carol G. Mackenzie
Mackenzie St.

Dear Carol,

I would be willing to have my name stand
for the following Boards for Mackenzie County:

- Municipal Planning Commission
- Subdivision & Development Appeal Board
- Rural Water Services Board
- Veterinary Advisory Committee

Please accept this as my letter(s) of application.

Thankyou for your consideration,

Beth Kappeler
Box 1666
High Level AB
(480) 926-4674

Box 158
High Level, AB
T0H 1Z0

October 9, 2007

Carol Gabriel, Executive Assistant
Mackenzie County
Box 640
Fort Vermilion, AB
T0H 1N0

Dear Madam

I would like to apply for one a of the position on the Upper Hay Recreational Hunting and Fishing Advisory Committee.

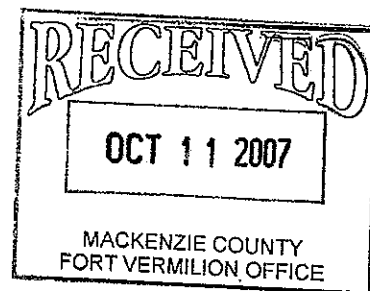
I feel I can contribute to the committee as I am retired therefore I will have the time for the committee. I have lived in the Rocky Lane Area for 60 years. I enjoy the hunting and fishing in this area and have a great respect for wildlife and nature. I have a trapline in the Steen River area and a member of the Alberta Trappers Association.

Thank you for your consideration.

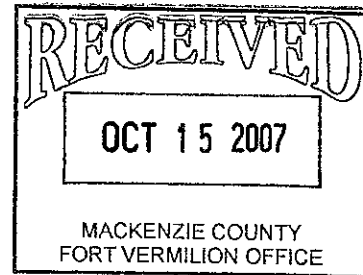
Sincerely.



Mike Kowal
927-4510



October 15, 2007



Dear Board Members,

I would like to let my name stand for a position as a representative of Fort Vermilion on the Mackenzie Housing Board. I have lived in the community for many years and always tried to support programs and initiatives within the community.

I have some experience with local projects and have been responsible for having three playgrounds build in the community. One was put in at St. Mary's Elementary, one at Fort Vermilion Public School and one that is now located at the Fort Vermilion Library. I was also involved in the proposal and operation of the Fort Vermilion Children's Centre which encompassed a Day Care, Playschool and Family Center.

I have been working for the Fort Vermilion School Division for many years and have always volunteered and been involved in projects that would benefit the community, families and children.

I have always seen Mackenzie Housing as a very important and essential component of our municipality and would love the opportunity to serve in the capacity of a board member.

Please consider my request to represent our community as a local board member.

Sincerely,

A handwritten signature in black ink, appearing to be "Sharon McLean". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sharon McLean

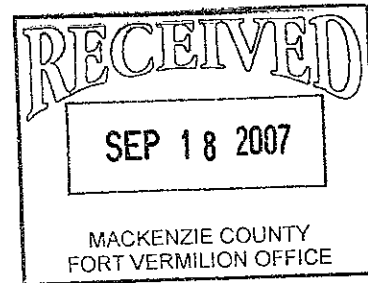
TO CAROL GABRIEL, EXECUTIVE ASSISTANT
MACKENZIE COUNTY - P.O. BOX 640
FT VERMILLION AB. T0H-1N0
PH 7-3718 FAX 7-4266

FROM DAVE NEUFELD
Box 406 AA-CRETE AB
T0H-2H0

I WOULD LIKE TO LET MY NAME
STAND FOR THE POSITION OF THE
MACKENZIE HOUSING MANAGEMENT
BOARD FOR THE AA-CRETE AREA.
I'VE SERVED ON THIS POSITION FOR 2 YRS.
AND THINK I CAN HELP IN THIS AREA.

THANK YOU
D. Neufeld

Wally Schroeder
Box 1166
La Crete, Alberta
T0H 2H0
Phone: 780-928-2055



September 18, 2007

Executive Assistant
Mackenzie County
P.O. Box 640
Fort Vermilion, Alberta
T0H 1N0

To The Mackenzie County Council:

I am again applying to serve on several of the boards which the Council fills annually at its October organizational meeting. They are the following in order of priority:

- 1) Municipal Planning Commission
- 2) Mackenzie County Library Board
- 3) Mackenzie Housing Management Board
- 4) Assessment Review Board

1) My first priority is to serve on the Municipal Planning Commission. Serving on the Subdivision and Development Appeal Board for the past 6 years gives me some experience in the area of municipal planning which I can bring to this commission.

2) My second priority is to continue serving on the Mackenzie County Library Board as one of the 2 La Crete representatives for the next 3 year term. I sent in a separate letter of application for this board because my term expires at the end of September. Please refer to that letter when making your decision.

3) I am willing to continue serving on the Mackenzie Housing Management Board on which I have served the past 8 years and chaired for 7 years. As a result of this position, I have also served on the provincial board of directors of the Alberta Senior Citizens Housing Association representing the Peace Zone for the last 3 years. If other capable individuals apply for the La Crete positions on this board, I am willing to withdraw my application.

4) If no one else applies and you need someone to fill the positions on the Assessment Appeal Board, I am willing to continue serving on this board on which I have served for the past 7 years. We have not heard an appeal in the past 2 years.

Please inform me at your convenience, as to your decision regarding my status on these 4 boards. My phone numbers are 928-2055 and 841-2826.

Thank you for considering my applications.

Sincerely yours;

A handwritten signature in cursive script that reads "Wally Schroeder".

Wally Schroeder

Wally Schroeder
Box 1166
La Crete, Alberta
T0H 2H0

August 20, 2007



Mackenzie County Council
C/o Executive Assistant of Mackenzie County
Box 640
Fort Vermilion, Alberta
T0H 1N0

To Whom It May Concern:

My appointment to the Mackenzie County Library Board expires at the end of September. I was appointed for a 2 year term to replace a La Crete board member who had resigned. Normally the appointment is for 3 years

I am applying to continue serving on this board for the next 3 year term as one of the two La Crete representatives.. I have enjoyed my time on this board and was the vice-chair this past year. Two accomplishments of the past year have been the successful negotiation of a service agreement with the High Level Library Board and the updating of all our policies. If appointed, I would recommend the term expire at the end of October 2010 to coincide with the expiry dates of the other County boards.

I work well as a board member and my input would continue to have a positive effect on the operation of the Mackenzie County Library Board.

If you require any further information or wish to contact me, please call me on my home phone at 780-928-2055 or my cell at 780-841-2826. Thank you for considering my application..

Sincerely yours

Wally Schroeder

Carol Gabriel

From: Anthony Thiessen [AnthonyT@fvsd.ab.ca]
Sent: Wednesday, October 10, 2007 4:36 PM
To: Carol Gabriel
Subject: application for municipal planning commision board

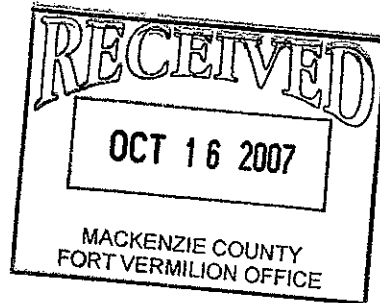
My interest in the municipal planning commision board comes from a interest and desire in the continuing improvement and development of our county and communities. My experience linked to this positions are as follows:

1. As a teacher I have been involved in development of many initiatives. Here are several examples; internet use for Gr. 7 students, playground equipment maintenance and placement, fundraising through the development of a piggery.
2. I am a good communicator and analyzer of information.
3. I believe I can act in an unbiased manner as I have lived in several of the communities in our county.

Sincerely, Anthony Thiessen

Jim Thompson
5102-49th Ave.
Fort Vermilion, AB
T0H 1N0

Mackenzie County Council
P.O. Box 640
Fort Vermilion, AB
T0H 1N0



Attention: Mr. Bill Kostiw

Re: Members at Large for Board Appointments

Firstly, I would like to say thank you to the County Councillors and Administration for the last three years while serving on council. It has been a pleasure, to work with a diverse group of individuals and striving for the betterment of our communities. A change is always for the better and I wish Ray Toews all the best in his new position.

With this being said, I would like to let my name stand for the following Board Positions:

Mackenzie Housing Management Board – I'm interested in becoming a Board Member because I feel that Fort Vermilion is in need of fair representation and knowing council's view on past MHMB daily operations, you need someone that will voice concerns on behalf of the residents and represent the County in an open and honest environment. I was a Board member for one term on the Fort Vermilion Housing Authority prior to the amalgamation in the region.

Mackenzie Regional Library Board – I have been a Board Member for the last year as a council representative for the county. Being on this board has given me insight on how this Board is governed and the responsibility they have towards the libraries involved. It is for this reason that I see this board viable and important for our region that assists with the delivery of library services in our region.

I feel that serving on council for the last three years and being a 'community' minded person, and not having a 'boxed in' mindset, and lastly having the desire for our region to go forward, I would qualify to fairly represent not only Fort Vermilion, but the region in whole.

Thanking you in advance for your consideration

Jim Thompson

Carol Gabriel

From: JAKE & SUE WOLFE [wolfeman@telus.net]
Sent: Wednesday, October 03, 2007 9:20 PM
To: Carol Gabriel
Subject: APPLICATION

TO/ MACKENZIE COUNTY OCT 3/07
PO BOX 640
FORT VERMILION, AB.
T0H1N0

I AM APPLYING FOR THE MEMBER AT LARGE FOR THE
UPPER HAY REC HUNTING & FISH ADVISORY COMMITTEE

I HAVE SERVED IN THIS COMMITTEE IN THE PAST.

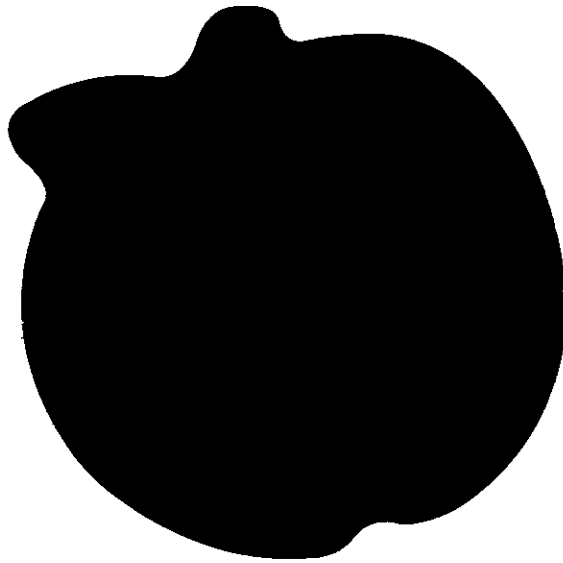
YOURS TRULY,
JAKE J WOLFE
PO BOX 365
LACRETE, AB
T0H2H0
wolfeman@telus.net

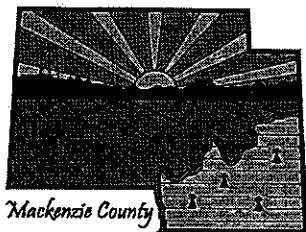
Carol Gabriel

From: Daryl Zielsdorf [dziels@incentre.net]
Sent: Tuesday, October 02, 2007 8:13 PM
To: Carol Gabriel
Subject: Board Appointments

Hello Carol,
I will let my name stand for another term on the Mackenzie Housing Board, Mackenzie Planning Commission and the Rural water service board.
I'll also put my name forward for the Library Board and any other board that you might need a body. If any questions, please call

Daryl Zielsdorf





MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	FCSS (Structure)

BACKGROUND / PROPOSAL:

For discussion.

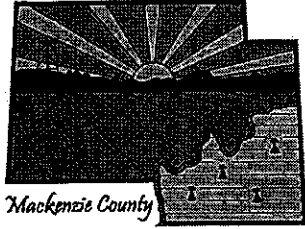
OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

For discussion.

Author: C. Gabriel Review By: _____ CAO _____



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Appointment of Council Representatives to Other Committees

BACKGROUND / PROPOSAL:

See attached current list of Council representatives.

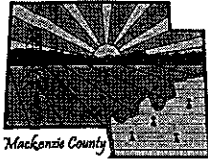
OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

Appointments to be made by Council for period the October 24, 2007 to October 2008.

Author: C. Gabriel **Review By:** _____ **CAO** _____



MACKENZIE COUNTY
OTHER COMMITTEES WITH COUNTY REPRESENTATION
2007 – 2008

CARIBOU MOUNTAINS WILDLAND ADVISORY COMMITTEE

Councillor Greg
Councillor Stuart (alt)

HAY ZAMA COMMITTEE

Councillor bill
Councillor Stuart
Councillor Ed (alt)

HAY ZAMA TOURISM SUB-COMMITTEE

Councillor bill
Councillor Stuart
Councillor Peter

HIGH LEVEL AIRPORT COMMITTEE

Councillor Ray Dewar

HIGH LEVEL FORESTS PUBLIC ADVISORY COMMITTEE

Councillor Walter

HIGH LEVEL & DISTRICT RECREATIONAL ADVISORY COMMITTEE

Councillor Stuart
Councillor Walter (alt)

MACKENZIE ECONOMIC DEVELOPMENT CORPORATION

Councillor John

MACKENZIE REGIONAL WASTE MANAGEMENT

Councillor Peter
Councillor Stuart

MIGHTY PEACE TOURIST ASSOCIATION (INCL. DEH CHO TRAVEL CONNECTION)

Councillor Peter

NORTHERN LIGHTS FOREST EDUCATION SOCIETY

Councillor Walter

MACKENZIE APPLIED RESEARCH ASSOCIATION

Member appointed by ASB

NAIT INDUSTRY ADVISORY COMMITTEE

Councillor John

NORTHWEST CORRIDOR DEVELOPMENT CORPORATION

Councillor Ed
Councillor bill
Councillor Lisa

RECREATION BOARDS

Fort Vermilion – Councillor Ray
La Crete – Councillor Peter
Zama City – Councillor Lisa

REGIONAL AIRPORT STUDY

Councillor /
Councillor /

REGIONAL ECONOMIC DEVELOPMENT INITIATIVE (REDI)

Councillor Dicky
Councillor Walter

REDI RECREATIONAL STUDY SUB-COMMITTEE

Councillor Peter

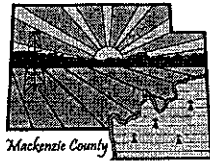
REGIONAL HEALTH PROFESSIONAL RETENTION COMMITTEE

Councillor John
Councillor /

VETERINARY SERVICES INCORPORATED

Councillor Walter
Councillor Dicky (alt)

Partners in Prevention
Lisa



MACKENZIE COUNTY
OTHER COMMITTEES WITH COUNTY REPRESENTATION
2006 – 2007

CARIBOU MOUNTAINS WILDLAND ADVISORY COMMITTEE

Councillor Newman
Councillor Watson (alt)

HAY ZAMA COMMITTEE

Reeve Neufeld
Councillor Watson
Councillor Froese (alternate)

HAY ZAMA TOURISM SUB-COMMITTEE

Reeve Neufeld
Councillor Watson
Councillor Braun

HIGH LEVEL AIRPORT COMMITTEE

Councillor Watson

HIGH LEVEL FORESTS PUBLIC ADVISORY COMMITTEE

Deputy Reeve Sarapuk

HIGH LEVEL & DISTRICT RECREATIONAL ADVISORY COMMITTEE

Councillor Watson
Deputy Reeve Sarapuk (alternate)

MACKENZIE ECONOMIC DEVELOPMENT CORPORATION

Councillor Driedger

MACKENZIE REGIONAL WASTE MANAGEMENT

Councillor Braun
Councillor Watson

**MIGHTY PEACE TOURIST ASSOCIATION
(INCL. DEH CHO TRAVEL CONNECTION)**

Councillor Braun

NORTHERN LIGHTS FOREST EDUCATION SOCIETY

Deputy Reeve Sarapuk

MACKENZIE APPLIED RESEARCH ASSOCIATION

Member appointed by ASB

NAIT INDUSTRY ADVISORY COMMITTEE

Councillor Thompson

NORTHWEST CORRIDOR DEVELOPMENT CORPORATION

Reeve Neufeld
Councillor Thompson
Councillor Froese

RECREATION BOARDS

Fort Vermilion – Councillor Thompson
La Crete – Councillor Braun
Zama City – Councillor Wardley

REGIONAL AIRPORT STUDY

Reeve Neufeld
Councillor Wardley

REGIONAL ECONOMIC DEVELOPMENT INITIATIVE (REDI)

Deputy Reeve Sarapuk
Councillor Braun

REDI RECREATIONAL STUDY SUB-COMMITTEE

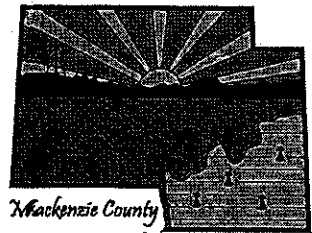
Councillor Braun

REGIONAL HEALTH PROFESSIONAL RECRUITMENT & RETENTION COMMITTEE

Councillor Watson
Councillor Driedger

VETERINARY SERVICES INCORPORATED

Deputy Reeve Sarapuk
(alternate)



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Bylaw 650/07 Honorariums & Expense Reimbursements for Councillors and Approved Committee Members

BACKGROUND / PROPOSAL:

The honorariums and expense reimbursement bylaw is provided to Council at their annual organizational meeting for review and discussion.

Proposed Bylaw 650/07 was presented to Council at their September 26th meeting to include the following addition as the existing Bylaw 604/06 does not address honorariums paid to approved committee members for attending more than one meeting:

Clause 3
"When two or more meetings are attended in one day, a total of \$225 (1.5 per diems) shall be paid."

This proposed bylaw was tabled to the organizational meeting.

OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

Author: C. Gabriel Review By: _____ CAO _____

RECOMMENDED ACTION:

MOTION 1

That first reading be given to Bylaw 650/07 being a bylaw to provide for honorariums and related expense reimbursement for councilors and approved committee members.

MOTION 2

That second reading be given to Bylaw 650/07 being a bylaw to provide for honorariums and related expense reimbursement for councilors and approved committee members.

MOTION 3

That consideration be given to go to third reading of Bylaw 650/07 being a bylaw to provide for honorariums and related expense reimbursement for councilors and approved committee members, at this time.

MOTION 4

That third reading be given to Bylaw 650/07 being a bylaw to provide for honorariums and related expense reimbursement for councilors and approved committee members.

Author: _____ Review Date: _____ CAO _____

BYLAW NO. 650/07

BEING A BY-LAW OF THE
MACKENZIE COUNTY
IN THE PROVINCE OF ALBERTA

TO PROVIDE FOR HONORARIUMS AND RELATED EXPENSE
REIMBURSEMENT FOR COUNCILLORS
AND
APPROVED COMMITTEE MEMBERS

WHEREAS, the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta, 1994, hereinafter referred to as the "M.G.A." provides for decisions of council to be made by resolution or bylaw, and

WHEREAS, the council is desirous of establishing compensation of Councillors and approved committee members for their meeting time and their out of pocket expenses while on official municipal business,

NOW THEREFORE, the Council of the Municipal District of Mackenzie No. 23, duly assembled, enacts as follows:

Honorariums

1. Monthly honorariums shall be paid to each Councillor for their time spent conducting the business of the municipality as follows:

Reeve - \$900 per month
Councillor - \$600 per month
2. Councillors in attendance at council meetings, approved council committee meetings, seminars and conventions shall be paid \$200.00 per day plus mileage and meal allowance, where applicable. When two or more ^{complete} meetings are attended in one day, a total of \$300 (1.5 per diems) shall be paid.
3. Members-at-large appointed to approved council committees shall be paid \$150.00 per day when in attendance at approved council committee meetings, seminars and conventions, plus mileage and meal allowance, where applicable. **When two or more meetings are attended in one day, a total of \$225 (1.5 per diems) shall be paid.**
4. Travel time to and from any council meeting, approved council committee meeting, seminar and/or convention shall be paid mileage and meal allowance, where applicable. Councillors driving to a

*If meeting has been cancelled within 24 hours
& no notice*

seminar/convention shall be paid \$200.00 for one travel day there and one travel day back. Only one per diem per day shall be allowed.

5. A monthly communication allowance shall be paid
 - (a) equal to the actual cost of internet access, and
 - (b) a computer allowance of \$50, and
 - (c) a telephone allowance of \$60.

Transportation Expenses

6. Mileage shall be paid at the current non-taxable rate (as allowed by Revenue Canada) for each kilometer travelled by each Councillor and member-at-large who is travelling with their personal vehicle on business of the municipality or its committees. Such mileage shall be calculated from the place of residence of the Councillor or member-at-large to the place of the meeting and return. In addition, such mileage allowance shall apply to any approved convention or seminar.
7. Taxi fares, automobile rental, parking charges and public transportation fares will be reimbursed upon presentation of a receipt

Reimbursement for Accommodations and Meals

8. Where a Councillor or committee member is required to travel on municipal business and overnight accommodation away from his/her regular place of residence is necessary, he/she may claim in respect of the time spent on travel status
 - (a) Either
 - (i) reimbursement of the cost of accommodation in a hotel, motel, guest-house, inn or other similar establishment, on a receipt submitted with the municipal expense account form, or
 - (ii) an allowance of \$50.00 per night
 - (b) in respect of each breakfast, lunch, or dinner, either
 - (i) reimbursement of the cost of the meal, excluding alcoholic beverages, and of an amount equal to the

- (ii) amount of the gratuity paid on the meal to a maximum of 15% of the cost of the meal as shown on the receipt, or the appropriate meal allowance, without receipt, as follows:

breakfast - \$15 including GST
(if time of departure is prior to 7:30 a.m.)

lunch - \$15 including GST
(if time of return is after 1:00 p.m.)

dinner - \$25.00 including GST
(if time of return is after 6:30 p.m.)

9. Meal claims will be calculated based on reasonable travel times to get to and return from meeting commencement and conclusion times.
10. A Councillor and committee member may claim
 - (a) an allowance of \$5.00 for personal expenses for each full 24-hour period on travel status.
 - (b) reasonable telephone expenses on Municipal District business.

Benefits

11. A group benefits package shall be made available to each Councillor; should the Councillor choose to opt in the benefits shall be paid for entirely by the Councillor.

Signing Authority

12. Administration shall have the authority to verify and sign the Reeve and Councillor expense claims and honorariums under the following conditions:
 - (a) Councillors have attended Council meetings in person or by teleconference (up to a maximum of three teleconferences per year).
 - (b) Workshops, conferences, conventions that have been approved by Council prior to submission of expense claim.

- (c) Attendance at Committee meetings or Task Force meetings will be in accordance with the bylaws or Terms of Reference of that committee or task force.
13. In the event that a discrepancy is noted on an expense or honorarium claim, Administration shall forward the claim to the Reeve for final decision.
 14. Council members will supply their expense claims and honorariums within 60 days after the incurrence of the expenditure. After this time, the expense claims will not be paid, unless there are special circumstances.
 15. Council members will submit their December expense claim and honorarium by January 31 of the following year in order to expedite the closing of the year-end accounts.
 16. No expenses other than those listed in this bylaw may be claimed.
 17. This bylaw shall come into effect the day that it is passed and rescind Bylaw 604/06 and all amendments made thereto.

First Reading given on the _____ day of _____, 2007.

Bill Neufeld, Reeve

Carol Gabriel, Executive Assistant

Second Reading given on the _____ day of _____, 2007.

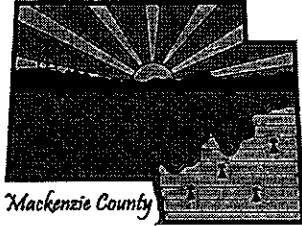
Bill Neufeld, Reeve

Carol Gabriel, Executive Assistant

Third Reading and Assent given on the _____ day of _____, 2007.

Bill Neufeld, Reeve

Carol Gabriel, Executive Assistant



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	Bylaw 529/05 Organizational and Procedural Matters of Council, Council Committees and Councillors

BACKGROUND / PROPOSAL:

For review and discussion.

OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

Author: C. Gabriel Review By: _____ CAO _____

BYLAW NO. 529/05

**BEING A BY-LAW OF THE
MUNICIPAL DISTRICT OF MACKENZIE No. 23
IN THE PROVINCE OF ALBERTA**

**TO PROVIDE THE ORGANIZATIONAL AND PROCEDURAL MATTERS OF
COUNCIL, COUNCIL COMMITTEES AND COUNCILLORS**

WHEREAS, the Municipal Government Act, Being Chapter M-26.1 of the Revised Statutes of Alberta, 2000, hereinafter referred to as the "M.G.A." provides for the establishment of Council committees and other bodies, procedure and conduct of Council, Council committees and other bodies established by Council and the conduct of Councillors and members of Council committees and other bodies established by Council; and

WHEREAS, the M.G.A. provides for organizational and procedural matters of Council, Council committees and Councillors.

NOW THEREFORE, the Council of the Municipal District of Mackenzie No. 23, duly assembled, enacts as follows:

Code of Ethics

The proper operation of democratic local government requires that elected officials be independent, impartial and duly responsible to the people.

To this end it is imperative that:

- a) Government decisions and policy be made through the proper channels of government structure.
- b) Public office not be used for personal gain.
- c) The public have confidence in the integrity of its government.

Accordingly, it is the purpose of these guidelines of conduct to outline certain basic rules for Municipal District of Mackenzie No. 23 Council so that they may carry out their duties with impartiality and equality of services to all, recognizing that the basic functions of elected local government officials are, at all times, services to their community and the public.

To further these objectives, certain ethical principles should govern the conduct of Municipal District of Mackenzie No. 23 Council in order that they shall maintain the highest standards of conduct in public office and faithfully discharge the duties of office without fear or favour.

Councillors shall:

1. Govern their conduct in accordance with the requirements and obligations set out in the municipal legislation of the Province of Alberta.
2. Not use confidential information for personal profit of themselves or any other person.
3. Not communicate confidential information to anyone not entitled to receive the applicable confidential information.
4. Not use their position to secure special privileges, favours, or exemptions for themselves or any other person.
5. Preserve the integrity and impartiality of Council.
6. For a period of twelve (12) months after leaving office, abide by the ethical standards of conduct listed above, except those related to confidential information which shall apply in perpetuity.
7. Not assume that any unethical activities (not covered by or specifically prohibited by these ethical guidelines of conduct, or by any legislation) will be condoned.

Municipal Office

101. In accordance with the M.G.A., the main municipal office shall be the administration office located at Fort Vermilion, Alberta.

Chief and Deputy Chief Elected Official

201. In accordance with the M.G.A., the chief elected official shall have the title of Reeve and the deputy chief elected official shall have the title of Deputy Reeve.
202. Annually, at the organizational meeting of Council, Council shall elect the Reeve and the Deputy Reeve.

Meetings of Council

Organizational Meetings

301. The organizational meeting of Council shall be held according to the MGA, no later than two weeks after the third Monday in October. Any changes in the date, time and location may be made at a regular Council meeting at least two weeks in advance and must be advertised

Regular Meetings

303. The dates, times, and place of regular meetings of Council shall be established at the Organizational meeting annually according to the MGA and may be amended by motion of Council at any time.
304. The Chief Administrative Officer shall record the time of arrival and departure of Council members at meetings should a member of Council arrive late at a meeting or depart prior to the completion of the meeting.
305. If a quorum is not present within thirty minutes after the time fixed for regular or special meetings, the Chief Administrative Officer shall record the names of the members present, and the Council shall stand adjourned until the next regular or special meeting.
306. In the case that the Reeve and Deputy Reeve is not in attendance within thirty minutes after the hour appointed for a meeting and a quorum is present, the Chief Administrative Officer shall call the meeting to order and a Chairman shall be chosen by the Councillors present who shall preside during the meeting until the arrival of the Reeve or Deputy Reeve.

Electronic Communication System Meetings

401. All council meetings may be conducted by means of electronic communication systems provided the facilities allow all councillors at the meeting to participate and to hear the discussion by all other participants at the meeting.
402. A Councillor participating in a meeting described in section 401 will be considered to have voted in the affirmative unless that councillor voices a negative vote on the motion.

403. A councillor participating in a meeting described in section 401 is considered to be present at the meeting and will be recorded in the minutes as being present via electronic communication.
404. Council recognizes the importance of face-to-face interaction and as such limits each Councillor to a maximum of three meetings annually using electronic communications without Council approval.

Conduct of Meetings

501. Every delegate to a regular Council meeting, and each member of Council shall address the chair but shall not speak until recognized by the chair.
502. The Reeve or other presiding officer may, upon request of a member of Council, authorize a person in the public gallery to address Council, only on the topic being debated at that time in the meeting and within time limits specified by the Reeve or other presiding officers.
503. A motion may be withdrawn by the mover at any time before voting.
504. The following motions are not debatable.
 - a) Adjournment.
 - b) Take a Recess.
 - c) Question of Privilege.
 - d) Point of Order.
 - e) Limit Debate on the Matter before Council.
 - f) Division of a Question.
 - g) Table the Matter to Another Meeting.
505. Where a question under consideration contains distinct propositions, the vote upon each proposition shall be taken separately when any member so requests or when the Reeve or other presiding officer so directs.
506. Whenever the Reeve or other presiding officer is of the opinion that a motion is contrary to the rules and privileges of the Council or Council Committee, he shall appraise the member thereof immediately, before putting the question, and shall cite the rule or authority applicable to the case without argument or comment, unless otherwise decided by a two-thirds majority vote of the members present.

507. In all cases not provided for in the proceedings of the Council and Council Committee, the "Revised Roberts Rule of Order" shall be followed and in such cases the decision of the Reeve or other presiding officer shall be final and accepted without debate.

Delegations

601. A person or a representative of any delegation or group of persons who wishes to bring any matter to the attention of the Council or who wishes to have any matter considered by the Council shall address a letter or other communication to the Council outlining the subject to be discussed. The letter shall be typewritten or legibly written, signed by the correct name of the writer, delivered or mailed to the office of the Chief Administrative Officer so that it arrives at least at 4:30 o'clock in the afternoon seven calendar days immediately preceding the meeting at which it is to be presented, and it shall contain the full mailing address of the writer. If he or she wishes to appear before Council it shall be so stated in the letter.
602. Delegations shall be granted a maximum of fifteen (15) minutes to present the matter outlined in their letter. Where the Reeve or other presiding officer determines that additional time shall be granted to a delegation, additional time shall be granted in the length specified by the Reeve or other presiding officer.
603. Notwithstanding Section 602, where the Reeve or other presiding officer determines that sufficient time has been granted to a delegation to present the matter outlined in their letter, the Reeve or other presiding officer may limit the length of time granted to the delegation.
604. Delegations who have not submitted a letter in accordance with Section 601 may be granted by the Reeve or other presiding officer a maximum of 15 minutes to outline the matter they wish to present to Council, and following that outline, the Reeve or other presiding officer shall determine if the delegation is to be granted time under Sections 602 and 603 to present the matter outlined.

Agenda and Order of Meetings

701. Prior to each regular meeting, the Chief Administrative Officer shall prepare a statement of the order of business to be known as the "Agenda" of all business to be brought before the Council at the regular meeting.

702. To enable the Chief Administrative Officer to prepare a proper agenda, all documents and notice of delegations intended to be submitted to the Council shall be submitted to the Chief Administrative Officer not later than 4:30 p.m., seven calendar days before the regular meeting.
703. Additions placed on the agenda at the meeting shall be discouraged, however an addition may be made to the agenda with a simple majority consent of Councillors present. Actions resulting from the agenda additions require unanimous consent given by those Councillors present. Exceptions to actions requiring unanimous consent are a tabling motion or that the agenda item be received as information.
704. The Chief Administrative Officer shall, to the best of his ability, place at the disposal of each member of Council, a copy of the agenda and all supporting materials not later than 4:30 p.m., four calendar days before the regular meeting.
705. The only exception to Section 704 shall be "in camera" issues, which shall be distributed at the Council meeting and shall be returned to the Chief Administrative Officer immediately after the Council meeting. Large volume documentation supporting "in camera" issues may be distributed to Council prior to the Council meeting.
706. Motions of Council or Council Committees do not require a seconder.
707. Prior to each regular Council meeting, Council may conduct a Committee of the Whole meeting. The Committee of the Whole meeting provides Council with an opportunity to discuss issues before they are brought to the table in the form of a Motion.

Individual Recording of Council Proceedings

801. No person shall, unless a two thirds majority consent of Council is given, record the proceedings of Council through tape recorder, video camera, or other devices. This provision does not apply to the preparation of the minutes of the Council meetings by the Chief Administrative Officer or the designate of the Chief Administrative Officer.

Council Committees and Boards

901. Standing Committees shall be established by Council from time to time and shall be governed by the Terms of Reference adopted by Council.
902. Members of any M.D. of Mackenzie Committees or Boards that have legal decision making powers shall vote on all matters entertained by that Committee or Board.
903. Where a Committee or Board member fails to comply with Section 902 that member shall be automatically disqualified.

General

1001. By-law No. 443/04 and all amendments thereto are hereby repealed.

First Reading given on the 26th day of October 2005.

"B. Neufeld" (signature on file)
Bill Neufeld, Reeve

"C. Woodward" (signature on file)
Christine Woodward, Executive Assistant

Second Reading given on the 26th day of October, 2005.

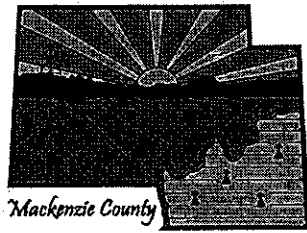
"B. Neufeld" (signature on file)
Bill Neufeld, Reeve

"C. Woodward" (signature on file)
Christine Woodward, Executive Assistant

Third Reading and Assent given on 26th day of October, 2005.

"B. Neufeld" (signature on file)
Bill Neufeld, Reeve

"C. Woodward" (signature on file)
Christine Woodward, Executive Assistant



MACKENZIE COUNTY REQUEST FOR DECISION

Meeting:	Organizational Council Meeting
Meeting Date:	October 24, 2007
Presented By:	William Kostiw, Chief Administrative Officer
Title:	2007-08 Council Meeting Dates

BACKGROUND / PROPOSAL:

Attached are the recommended Council meeting dates for November 2007 to October 2008.

Generally the dates fall on the second Tuesday and the fourth Wednesday of the month. Where there is a statutory holiday on a Monday the meeting will be held on Wednesday to allow for a working day prior to the meeting.

OPTIONS & BENEFITS:

COSTS & SOURCE OF FUNDING:

RECOMMENDED ACTION:

That the Regular Council meetings for the period November 2007 to October 2008 be scheduled as follows.

Author: C. Gabriel Review By: _____ CAO _____

Date	Location	Time
Wednesday, November 14, 2007	Fort Vermilion	10:00 a.m.
Wednesday, November 28, 2007	Fort Vermilion	10:00 a.m.
Tuesday, December 11, 2007	Fort Vermilion	10:00 a.m.
Tuesday, January 8, 2008	Fort Vermilion	10:00 a.m.
Wednesday, January 23, 2008	Fort Vermilion	10:00 a.m.
Tuesday, February 12, 2008	Fort Vermilion	10:00 a.m.
Wednesday, February 27, 2008	Fort Vermilion	10:00 a.m.
Tuesday, March 11, 2008	Fort Vermilion	10:00 a.m.
Wednesday, March 26, 2008	Fort Vermilion	10:00 a.m.
Tuesday, April 8, 2008	Fort Vermilion	10:00 a.m.
Wednesday, April 23, 2008	Fort Vermilion	10:00 a.m.
Tuesday, May 6, 2008	Fort Vermilion	10:00 a.m.
Wednesday, May 28, 2008	Fort Vermilion	10:00 a.m.
Tuesday, June 10, 2008	Fort Vermilion	10:00 a.m.
Wednesday, June 25, 2008	Fort Vermilion	10:00 a.m.
Tuesday, July 8, 2008	Fort Vermilion	10:00 a.m.
Wednesday, July 23, 2008	Fort Vermilion	10:00 a.m.
Tuesday, August 12, 2008	Fort Vermilion	10:00 a.m.
Wednesday, August 27, 2008	Fort Vermilion	10:00 a.m.
Tuesday, September 9, 2008	Fort Vermilion	10:00 a.m.
Wednesday, September 24, 2008	Fort Vermilion	10:00 a.m.
Wednesday, October 15, 2008	Fort Vermilion	10:00 a.m.
Wednesday, October 29, 2008 (Organizational & Regular meeting)	Fort Vermilion	10:00 a.m.

2nd Tuesday @ 10am
 4th Wednesday (rotating) @ 4pm
 btwn 3 communities

Author: C. Gabriel Reviewed By: CAO