

Type of Decision									
Meeting Date	Friday, May 20, 2011				Report Date	Tuesday, May 17, 2011			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Lawyer Fees and Municipal Budget Report - 20/05/11/702									

SUBJECT: Financial consequences of how the Municipal Election's Act problem was dealt with.

RECOMMENDATION: That each of the following resolutions is adopted due to the financial consequences of increasing the number of contacts with the municipal solicitor raising the invoice and costs of settling this issue.

Had the Clerk been left to contact the solicitor for advice and had responsible steps been taken to resolve this issue from the beginning the total costs would be significantly lower. As it was, the advice from the solicitor, independently sought by the Reeve, was ignored by Councillor Reid and Reeve Stewart at the meeting of May 3, 2011; not even discussed or considered at the Council table.

RESOLUTION #1

WHEREAS the Municipality of the United Townships of Head, Clara, and Maria has encountered unforeseen legal expenses in the 2011 budget year;

AND WHEREAS the attendance of a Municipal representative at the AMO conference in London, Ontario is not an absolute priority for the Municipality;

AND WHEREAS amendments to the municipal budget may occur without special notice as per the Municipal Notice By-law;

AND WHEREAS according to the Municipal Procedure By-law decisions of Council may be reconsidered in light of new information;

THEREFORE BE IT RESOLVED THAT notwithstanding the statement of budgeted expenses arising from the January 21, 2011 Council meeting, and the budget adopted at the April 1, 2011 Council meeting, this Council decrees that no representative of the Council of the United Townships of Head, Clara, and Maria will attend this conference and rescinds its previous approval for this trip.

RESOLUTION #2

WHEREAS in the past the Council of the United Townships of Head, Clara, and Maria has deemed it advisable to appoint a representative to the Upper Ottawa Valley Community Policing Advisory Committee;

AND WHEREAS the United Townships of Head, Clara, and Maria has encountered unforeseen legal expenses for 2011;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara, and Maria does hereby agree to cease to send a representative to this advisory committee until further notice in order to save ratepayers the costs of Council time attending and travelling to these meetings;

AND FURTHER THAT a copy of this resolution be forwarded to the detachment advising of this decision.

BACKGROUND/EXECUTIVE SUMMARY: You have each been in receipt of various pieces of information since this issue began. You have received emails, letters, reports and petitions from the Municipal Solicitor, Municipal Auditor, Treasurer, Clerk, individual Council members and various members of the public as well as copies of judicial decisions in other similar cases.

On April 6, 2011 I was made aware via email by Steve Seller of MMAH that two of the municipal council members had not filed their financial forms by the legislated deadline. As can be documented by the many letters and emails to Steve Seller and Bill Instance the municipal solicitor, I performed the duties of my job and attempted to determine what steps I should take to resolve this issue.

Made aware of the situation and seemingly unwilling to consider anything other than the fact that according to the legislation the seats were vacant and we needed to fill them, Reeve Stewart took it upon herself to contact the municipal solicitor for additional information. Due to the repeated questions of Reeve Stewart and continued contact with Mr. Instance, the invoice from Mr. Instance will be higher than it would have if I was left to perform the duties of my job as per the Municipal Act.

The Municipal Act states...

224. *It is the role of council,*

- (a) to represent the public and to consider the well-being and interests of the municipality;*
- (b) to develop and evaluate the policies and programs of the municipality;*
- (c) to determine which services the municipality provides;*
- (d) to ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;*
- (d.1) to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;*
- (e) to maintain the financial integrity of the municipality; and*
- (f) to carry out the duties of council under this or any other Act. 2001, c. 25, s. 224; 2006, c. 32, Sched. A, s. 99.*

Role of head of council

225. *It is the role of the head of council,*

- (a) to act as chief executive officer of the municipality;*
- (b) to preside over council meetings so that its business can be carried out efficiently and effectively;*
- (c) to provide leadership to the council;*
- (c.1) without limiting clause (c), to provide information and recommendations to the council with respect to the role of council described in clauses 224 (d) and (d.1);*

- (d) to represent the municipality at official functions; and*
- (e) to carry out the duties of the head of council under this or any other Act. 2001, c. 25, s. 225; 2006, c. 32, Sched. A, s. 100..*

Head of council as chief executive officer

226.1 *As chief executive officer of a municipality, the head of council shall,*

- (a) uphold and promote the purposes of the municipality;*
- (b) promote public involvement in the municipality's activities;*
- (c) act as the representative of the municipality both within and outside the municipality, and promote the municipality locally, nationally and internationally; and*
- (d) participate in and foster activities that enhance the economic, social and environmental well-being of the municipality and its residents. 2006, c. 32, Sched. A, s. 101.*

Further the role of staff is legislated as....

Municipal administration

227. *It is the role of the officers and employees of the municipality,*

- (a) to implement council's decisions and establish administrative practices and procedures to carry out council's decisions;*
- (b) to undertake research and provide advice to council on the policies and programs of the municipality; and*
- (c) to carry out other duties required under this or any Act and other duties assigned by the municipality. 2001, c. 25, s. 227.*

Clerk

228. (1) *A municipality shall appoint a clerk whose duty it is,*

- (a) to record, without note or comment, all resolutions, decisions and other proceedings of the council;*
- (b) if required by any member present at a vote, to record the name and vote of every member voting on any matter or question;*
- (c) to keep the originals or copies of all by-laws and of all minutes of the proceedings of the council;*
- (d) to perform the other duties required under this Act or under any other Act; and*
- (e) to perform such other duties as are assigned by the municipality. 2001, c. 25, s. 228 (1).*

Like participation in the Area Economic Development Committee, participation by HCM representatives in the AMO conference and the PAC, although approved by Council previously, has limited direct benefit to the ratepayers of HCM. There are seldom any reports from the PAC returned to Council for consideration. In fact most issues dealt with at these meetings do not get addressed or reported to HCM Council at all, questioning the need for attendance in the future.

Although the AMO conference has been on the agenda for a number of years, we have not had a representative attend in the 6 years since I have been in the employ of HCM. Direct benefit of attendance to HCM is questionable.

FINANCIAL CONSIDERATIONS: Although HCM has budgeted \$6,000 for legal fees for 2011, those are normally expected fees for consultation on matters that arise during the regular course of doing business. In 2010, without a situation such as this, legal fees totalled \$11,371.42 of a budgeted \$6,000. Since we are early in the year, with ongoing legal issues resulting from the actions of members of Council the total invoice from Mr. Instance can not be known at this time but

at approximately \$200 per hour will likely exceed \$6,000 for the year. Knowing this and not wanting a repeat of 2010's budget overages, Council should consider reducing costs in other areas which have limited direct value to the ratepayers or residents of the municipality.

Others Consulted: Jim Gibson, Ed Aiston.

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

Melinda Reith