

# THE CORPORATION OF THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA

April 25, 2011

Minutes of a special meeting of Council held on Monday, April 25, 2011 at 10:00 h. in the Municipal Hall.

## 1. CALL TO ORDER & MOMENT OF SILENCE

## 2. ROLL CALL

The following were present: Reeve Stewart Councillors: Ed Aiston, Dave Foote, Jim Gibson and Robert Reid.

Also in attendance: Ruth Morin, Treasurer; 5-8 members of the public.

## 3. DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF – None

## 4. STAFF REPORTS (For information only)

- i. Clerk's Verbal Report – that according to legislation and support of our Treasurer considering new information gained since Wednesday, I have written a letter to our solicitor requesting that this issue be brought before a judge in the appropriate court for resolution. That there was an impasse with both sides clearly drawn and everything else was opinion. I asked the Reeve if there was a reason to continue with this meeting.
- ii. She agreed that there was and proceeded with reading the resolution before Council.

## 5. UNFINISHED BUSINESS

- i. Report #25/04/10/001- Judicial Review re: Form 4  
Resolution # 25/04/11/001

Moved by Councillor Foote and Seconded by Councillor Reid

**WHEREAS** two members of the Council of the United Township of Head, Clara & Maria did inadvertently fail to file their Financial Audit statement prior to the deadline of March 26, 2011;

**AND WHEREAS** according to the *Municipal Elections Act*, failure to meet the requirements of section 78 (1) results in a forfeiture of the council seat;

**AND WHEREAS** all five seats on Council were filled by acclamation resulting in no campaign, no election and/or no finances aside from the nomination fee;

**AND WHEREAS** it is the position of the two members that they hold a seat until and unless they have been charged under the Act or until a judge makes a decision on the matter;

**AND WHEREAS** aside from quoting the legislation the Clerk has been unable to obtain definitive direction from MMAH as to the legal steps that this Council and administration should take;

**AND WHEREAS** the opinion of our municipal solicitor is based on interpretation of the legislation and not on case law as he admits it does not exist;

**AND WHEREAS** according to the Canadian Charter of Rights and Freedoms you are innocent until proven guilty; the effect of this section providing certain rights for Canadians when they have been charged with a criminal offense;

**AND WHEREAS** no one has been charged with a criminal offense;

**AND WHEREAS** the failure to file the forms was simply a missed deadline and not an attempt to circumvent the legislation or commit fraud or deceit;

**AND WHEREAS** continuing to conduct the business of this municipality without a resolution to this issue is not an option;

**AND WHEREAS** under section 274 (1) of the *Municipal Act* If a municipality so requests by resolution, a judge of the Superior Court of Justice shall, (a) investigate any supposed breach of trust or other misconduct of a member of council, an employee of the municipality or a person having a contract with the municipality in relation to the duties or obligations of that person to the municipality; (b) inquire into any matter connected with the good government of the municipality; or (c) inquire into the conduct of any part of the public business of the municipality, including business conducted by a commission appointed by the council or elected by the electors. 2001, c. 25, s. 274 (1).

**AND WHEREAS** an easy solution would be for the Municipality to bring such an application to the court to extend the filing date as in the case of Thunder Bay where the relief sought was to retroactively extend the filing date for the financial forms and declare that the seats were not forfeited and finally that the individuals have been Councillors throughout the time since March 25<sup>th</sup>;

**AND WHEREAS** prompt resolution to this issue will ultimately save the taxpayers time and money in administrative efforts;

**THEREFORE BE IT RESOLVED THAT** the Council of the United Townships of Head, Clara & Maria does hereby direct the Clerk to contact the municipal solicitor to have him make application to the court for the above noted remedy specifically to retroactively extend the filing date for the financial forms for the Councillors who missed the deadline and declare that the seats are not forfeited and finally that Mr. Aiston and Mr. Gibson have been Councillors throughout this entire time, i.e. since March 25<sup>th</sup> to and including the date of any decision;

Councillor Gibson called for a point of order in that the Reeve should explain the role of members of the public in the meeting.

Reeve Stewart did not acknowledge the request. Councillor Aiston and Councillor Gibson spoke to the resolution on hand. The Reeve did not attempt to call them to order after an initial comment.

Reeve Stewart called for a recorded vote but failed to call Councillor Gibson or Councillor Aiston.  
Foote – For  
Reid – No  
Stewart – Against

Aiston – resolution is not needed, the Clerk has already acted  
Gibson – was not called and did not respond; each maintains that there are no vacant seats.

Councillor Gibson called a point of order in respect to members of the public speaking – Reeve Stewart ignored it.

Councillor Foote asked to the Clerk to clarify a point concerning deputations, it was explained that 5 days written notice was required however with the consensus of full Council they could be heard.

Treasurer Ruth Morin spoke to the fact that failure to result could cost the municipality upwards of \$157,000 through lost MMAH funding.

Councillor Gibson repeated his request of the Reeve to uphold a point of order requesting that she explain the rules surrounding deputations to the members of the public and again she refused.

**6. ADJOURNMENT** – (Resolution Prepared)

Resolution # 25/04/11/002

Moved by Councillor Reid and seconded by Councillor Foote

**BE IT RESOLVED THAT** this meeting adjourn at 10:30 h to meet again Friday, May 6, 2011 at 14:00 h.

Carried

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Reeve – Tammy Lea Stewart

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Melinda Reith – Clerk