

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

February 17, 2012 - Special

Minutes of a special meeting of Council held on Friday, February 17, 2012 at 09:00 h. in the Municipal Hall. Although verbatim minutes are not normal or usual, it is felt that due to the content of this meeting, the comments help to provide some clarification. They are included following these minutes.

1. CALL TO ORDER & MOMENT OF SILENCE

2. ROLL CALL

The following were present Reeve Tammy Stewart, Councillors: Dave Foote, Jim Gibson and Robert Reid. Mr. Ray Bonenberg of the Delfi Group was in attendance as well as 3 members of the public. Two additional members arrived some 30 minutes later.

3. NEW COUNCIL MEMBER TO BE SWORN IN – Deborah Grills

4. DISCLOSURE OF PECUNIARY INTEREST & GENERAL NATURE THEREOF

5. NEW BUSINESS

i. Report to Council # 17/02/12/501 - Code of Conduct and Closed Session
Resolution # 17/02/12/001

Moved by Councillor Foote and Seconded by Councillor Reid

WHEREAS the conduct of a municipal “official” including employees and members of Council during the course of completing their employment or official duties does not fall under the definition of “personal information” as determined under the *Municipal Act*,

AND WHEREAS Mr. Conroy in his letter of January 25, 2012 states “I advise that it is unlikely that an inquiry into the conduct of council members would be considered “personal matters”, and as a consequence, a closed meeting would not be permitted under the *Municipal Act*.”

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby agree to receive the report of Mr. Bonenberg as it relates to the results of the Code of Conduct complaints filed against Council, Councillor Foote, Councillor Gibson and the Municipal Clerk, Melinda Reith in open session as per the Municipal Act and direction from the Municipal Solicitor.

Carried

Recorded Vote

| | |
|-------------------|-----|
| Reeve Stewart | No |
| Councillor Foote | Yes |
| Councillor Gibson | Yes |
| Councillor Grills | Yes |
| Councillor Reid | No |

ii. Report to Council #17/02/12/502 - Request for Attendance at Council Meeting via Teleconference

Resolution # 17/02/12/002

Moved by Councillor Reid and Seconded by Councillor Foote

WHEREAS a meeting of Council has been called to discuss the results of the investigation of Mr. Bonenberg as it relates to the Code of Conduct Complaints filed by a ratepayer;

AND WHEREAS that ratepayer has made a request to attend this meeting via teleconference;

AND WHEREAS this Council firmly believes in accountability and transparency, however; accommodating anyone who is not able to attend a meeting in person, be it a member of Council or a member of the public is not common practise, viable or secure;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby declare that the complainant may be provided with a report of the findings of Mr. Bonenberg however; like any other individual, does not have a claim to attendance at a meeting of Council via teleconference.

Carried Unanimously

Break from 10:39 – 10:50.

iii. Resolution to receive the report of Mr. Bonenberg re: Code of Conduct Complaints

Resolution # 03/02/12/003

Moved by Councillor Gibson and Seconded by Councillor Foote

WHEREAS the Delfi Group was hired by the municipality to complete Code of Conduct Complaint investigations for the Municipality;

AND WHEREAS Mr. Bonenberg has completed his investigations and has provided a report to Council during the special meeting of Friday, February 17, 2012;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby agree to receive the report of Mr. Bonenberg as information and to consider his recommendations at a future meeting.

BE IT FURTHER RESOLVED that Council will work with the Clerk to edit Mr. Bonenberg's report for future public release so that it meets the Municipal Act requirements for full disclosure respecting confidentiality while still providing answers to the public.

Carried

Recorded Vote

| | |
|-------------------|-----|
| Reeve Stewart | No |
| Councillor Foote | Yes |
| Councillor Gibson | Yes |
| Councillor Grills | Yes |
| Councillor Reid | Yes |

6. IN CAMERA OR CLOSED SESSION

Resolution # 17/02/12/004

Moved by Councillor Gibson and Seconded by Councillor Reid

WHEREAS in *the Municipal Act*, R.S.O. 2001 section [239. \(1\)](#) Reads "Except as provided in this section, all meetings shall be open to the public.

AND WHEREAS section 239 (2) states that a meeting or part of a meeting may be closed to the public if the subject matter being considered includes:

- (b) personal matters about an identifiable individual, including municipal or local board employees; and for Educational or training sessions as per section 239 (3.1) so long as the "meeting is held for the purpose of educating or training the members" and "at the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee."

AND WHEREAS the Council of the United Townships of Head, Clara & Maria has determined that the issue at hand is a qualifying exemption under section 239 as it concerns "personal matters" about an identifiable individual and/or "education or training".

AND WHEREAS at no time will business of Council be advanced during this closed session;

THEREFORE BE IT RESOLVED THAT this meeting go into an in camera session at 11:10 h:

- To adopt the minutes of the previous closed sessions of May 20, 2011, October 21, 2011, November 4, 2011 and January 26, 2012.
- To review a summary of an education and training session presented to this Council in January 2008 by Mr. Fred Dean, then solicitor.
- To participate in a facilitated session with Ray Bonenberg (Delfi Group) to take the suggestions from the Jan 26, 2012 report and develop action items to be implemented in the near future.

Carried Unanimously

Resolution # 17/02/12/006

Moved by Councillor Foote and Seconded by Councillor Grills

BE IT RESOLVED THAT this meeting come out of closed session at 13:02h. and the public portion of the meeting resume.

Let it be public record that no business of Council was advanced during this closed session that the meeting was held:

- To adopt the minutes of the previous closed sessions of May 20, 2011, October 21, 2011, November 4, 2011 and January 26, 2012.
- To review a summary of an education and training session presented to this Council in January 2008 by Mr. Fred Dean, then solicitor.
- To participate in a facilitated session with Ray Bonenberg (Delfi Group) to take the suggestions from the Jan 26, 2012 report and develop action items to be implemented in the near future.

Staff was directed to...

Votes were held in camera to adopt the minutes of the previous closed sessions.
Carried Unanimously

7. BUSINESS ARISING FROM CLOSED SESSION

- i. Resolution to receive the report of Mr. Bonenberg re: Harassment Complaints

Resolution # 03/02/12/007

Moved by Councillor Grills and Seconded by Councillor Reid

WHEREAS the Delfi Group was hired by the municipality to complete Harassment Complaint investigations for the Municipality;

AND WHEREAS Mr. Bonenberg has completed his investigations and has provided a confidential report to Council during the closed session of Thursday, January 26, 2012 which was further discussed at this meeting;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby agree to receive the report of Mr. Bonenberg and consider his recommendations at a future meeting.

BE IT FURTHER RESOLVED that Council will work with the Clerk to edit Mr. Bonenberg's report for future public release so that it meets the Municipal Act requirements for full disclosure respecting confidentiality while still providing answers to the public.

Carried Unanimously

- ii. Education and Training Session

Resolution # 03/02/12/008

Moved by Councillor Grills and Seconded by Councillor Gibson

WHEREAS Council and staff have reviewed a summary of the training session provided by Mr. Fred Dean in January of 2008;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby agree to follow that document as a component of tools which will be used to guide staff/council roles and responsibilities into the future.

Deferred due to time limitations

Carried Unanimously

8. QUESTIONS AND ANSWERS

9. CONFIRMATION OF PROCEEDINGS

Resolution # 03/02/12/009

Moved by Councillor Foote and Seconded by Councillor Reid

BE IT RESOLVED THAT By-Law 2012-06 being a by-law to confirm proceedings of the Council of the United Townships of Head, Clara & Maria at its special meeting held on February 17, 2012 be read a first time short and passed.

Carried Unanimously

10. ADJOURNMENT

Resolution # 03/02/12/010

Moved by Councillor Gibson and seconded by Councillor Grills

BE IT RESOLVED THAT this meeting adjourn at 13:10 h to meet again Friday, February 17, 2012 at 14:00h.

Carried Unanimously

Reeve – Tammy Lea Stewart

Clerk – Melinda Reith

DISCUSSION SUMMARY

1. Before adopting the first resolution there was discussion concerning the requirement for confidentiality vs. the need for openness and transparency? The statements of the solicitor were clear.
 - a. Mr. Bonenberg was of the opinion that the meeting should be closed but deferred to Council and the solicitor.
 - b. Reeve Stewart felt quite strongly that the meeting should be closed to the public refusing to put the question claiming a breach of confidentiality within the resolution as the letter from the solicitor was reviewed by Council in closed session.
 - c. Gibson: suggested that Reeve Stewart put the question and take it to a vote
 - d. Grills: should be in open session we are accountable to the ratepayers and need to be transparent in our activities.
 - e. Foote: I will not hide from the public.
 - f. Reid: Should be open as per our lawyer.
 - g. Stewart: I don't care, I have problems with it. I'll vote against it. We'll be putting ourselves in a libel position.
 - h. Bonenberg: It's a Code of Conduct report, in your opinion if we discuss this in public, is there a possibility of legal consequences? Do you think there's a possible legal transgression? You will have to decide as a council. Perhaps you should receive the report and read it before you open the meeting. The issues are sensitive. It must be clear how you will move ahead, what you are going to tell the ratepayers.
 - i. Stewart: spoke about the need for confidentiality.
 - j. Reith: provided clarification on harassment policy and code of conduct – two distinct documents with different requirements. Code of conduct does not make any statement as to confidentiality.
 - k. Council voted to receive the report in open session.
2. Prior to receiving Mr. Bonenberg's report as information, the following comments were made.

Discussion:

- a. Mr. Bonenberg: some of the allegations are not complaints but are opinions and statements and I have not addressed these.

First complaint is against Councillor Foote.

- b. Foote: Retold his version of his conversations with one of the complainants. Expressed that he would never again attempt to provide advice to anyone, that they could call the office instead.

Second complaint is against Councillor Gibson.

- c. Gibson: On page 6 of the report the term "outburst" is that of the complainant and is improper language and requested that it be corrected.
- d. Bonenberg: Acknowledged error.
- e. Grills: Point of clarification. We were not at the meeting of October 21st to listen to McKechnie; we were here for the waste management meeting. Stated McKechnie's request to amend the order of the meeting due to his schedule and Council's willingness to accommodate him.

Third complaint is against Council as a whole.

- f. Gibson: The meeting by-law should be changed so that people cannot tell lies. It does not allow for questioning or clarity. It should be changed so that the chair addresses each council member and clerk to clarify. Individuals have the chance to refute information shared as fact, fiction, truth, whatever. Change is necessary.
- g. Reith: On page 10 Mr. Bonenberg states that he did not find any reference to asking for the Reeve's resignation. The Clerk clarified that it was in the minutes of the May 20, 2011 meeting and would have been provided if asked. Mr. Bonenberg stated that he only relied on the preliminary information provided to him that he had dial up at home and did not search further.
- h. Gibson: On page 12, Councillor Gibson questioned Mr. Bonenberg's relying on a statement printed in the NRT as evidence.
- i. Reith: quoted Mr. McKechnie's statements from that meeting asking for her resignation and asking why Mr. Bonenberg seemed to be ignoring the statements provided via email from people at the meeting of October 21, 2011. The Clerk asked if Mr. Bonenberg had consulted with Debbie Grills, Gayle Watters, Linda Chartrand or Bill Donnelly concerning these statements.
- j. Bonenberg: Admitted that he had not but had no further explanation.

Fourth complaint is against the Clerk, Melinda Reith

- k. Reith: Page 17 Bonenberg states that the "Clerk aligned herself with certain factions" and stated that she has stated that Councillor's Aiston and Gibson being reinstated provided her some protection. It was explained that this protection was because at that point, there were comments of Reeve Stewart wanting to have the Clerk removed.
- l. Stewart: No, that's already been decided in the other report.
- m. Reith: The Clerk asked Mr. Bonenberg if he asked the question of Gayle Watters, Ruth Morin or Dave Foote whether they had heard that Reeve Stewart was trying to remove the Clerk from her employment as early as April of 2011.
- n. Bonenberg: No I didn't.
- o. Reith: Why not?
- p. Bonenberg: I didn't think I had to.
- q. Reith: Page 18 – had a challenge with Mr. Bonenberg's statement that "The Clerk appears to have lost the confidence of certain segments of the population." When asked how many people he had interviewed to come up with that conclusion he stated 10. 5 members of Council, the Clerk, Ruth Morin, and the two harassment complaint respondents. The Clerk asked if he thought that those two people were enough to provide a representation of the population.
- r. Bonenberg: Yes.
- s. Reith: I have a challenge with that methodology. Why didn't you interview objective witnesses?
- t. Bonenberg: No reply.
- u. Gibson: Mr. Bonenberg you printed in your previous report that this whole affair could have been avoided if our Clerk had lied to the Ministry of Municipal Affairs and Housing rep and secretly backdated the forms.
- v. Bonenberg: No I did not put that in my report.

- w. Gibson: Yes you did, I just can't locate it right now.
- x. Reith: It wasn't written in the report but you stated it at the meeting of Council held on January 26, 2011.
- y. Reith: Page 18 states that "clearly, not sharing the complaint document uniformly with all Council members is highly irregular and inappropriate." The Clerk explained to Mr. Bonenberg and Council that the reason for not sharing all the code of conduct complaint documents with all members of Council was a direct result of his opinion concerning the handling of the previous complaints. Mr. Bonenberg had stated during the Clerk's interview that perhaps the complaints should have been kept confidential. So, upon receiving the code of conduct complaints and knowing that Mr. Bonenberg would be the investigator and not Council, there was no need to provide each council member with a copy of each complaint. The Clerk was attempting to maintain confidentiality as directed.
- z. The clerk did not "share" the complaint filed against her with Councillors Foote and Gibson. On a personal level, Melinda Reith provided a copy to Dave Foote and Jim Gibson to ask for their personal opinions on a related matter which is not council business.
- aa. Bonenberg: Did not agree with this distinction.
- bb. Reith: Page 19 states that Mr. Clouthier testified that "the Clerk was yelling and swearing at him" and on page 20 "was also observed using offensive gestures". The Clerk explained that was simply not true and a complete fabrication. She did not swear and the only gestures were to point down the road to Councillor Foote's residence. Did Mr. Bonenberg contact Mr. Chartrand to verify Mr. Clouthier's version of the events?
- cc. Bonenberg: No
- dd. Reith: page 21 it is stated that "...thereby allowing the posting of the entire staff complaint along with Mr. McKechnie's name." The Clerk explained that this again is false. The complaints were never made public by staff or council but instead by McKechnie and Clouthier who brought them to the NRT. Only the names were in the resolutions which Council was required to adopt in open session.
- ee. Break from 10:39 – 10:50.
- ff. Prior to adopting the resolution to receive the code of conduct reports as information council discussed whether or not the report needed to be modified.
- gg. Recommended that suggestions for an amended version be provided to everyone so that they may make comments prior to receiving a final version.
- hh. Stewart: We read the whole damn thing in public we should just release it.
- ii. Reith: The resolution was written this way to protect the identity of the complainant however; it is common knowledge and stated on the Municipal website that any correspondence received by the municipality, written or verbal submissions may become public record. It was explained that due to protection of privacy rules there is a difference between what is stated verbally and any record of events. For this reason it was suggested that the complainant's name be removed from the record.
- jj. Grills: Everyone in this municipality knows who filed the complaints.