



SUMA Village Sector Meeting 2016



Policy Updates

- Multi-Material Recycling Program (MMRP)
 - www.mmsk.ca
- RCMP Policing
 - Bill C-7 & the RCMP Contract Advisory Committee
 - Inclusive Policing
- Federal Grade Crossing Regulations



Policy Updates

- Fire Service Rate for Motor Vehicle Collisions
- Federal Infrastructure Funding



Legal Update: What's New In Municipal Law

Village Sector Meeting – May 11, 2016

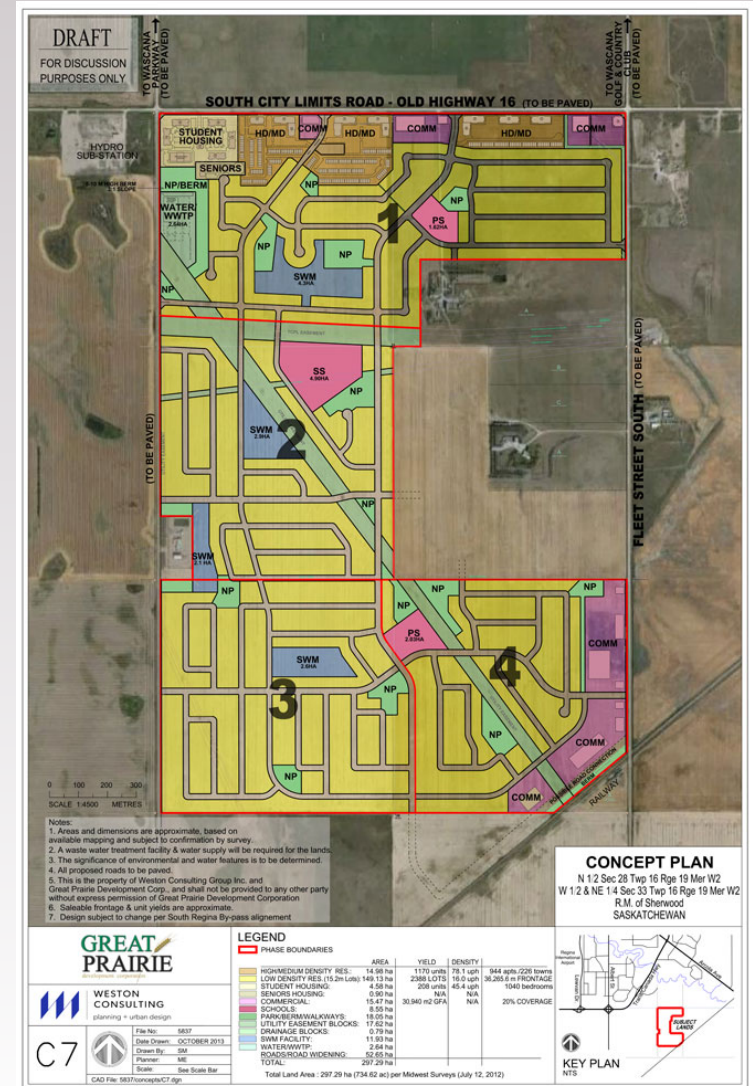


2016: “Post-Sherwood”

- **The world is a different place.**
 - *Final Report of the Inspection and Inquiry Into the RM of Sherwood No 159* (“Sherwood Report”)
 - Provincial action on those recommendations
 - Amendments to *The Municipalities Act* (2015)
 - Expansion of jurisdiction of Ombudsman (2015)
 - **Changes to Oath of Office and Code of Ethics (upcoming)**

Sherwood Report

- In February 2015, the Sherwood Report on the investigation into allegations of inappropriate conduct with respect to the Wascana Village development in the RM was released
- **Wascana Village:**
 - 14,000 people
 - 736 acres
 - Profit of \$400 million over 13 years



Sherwood Report

- **Findings:**
 - The RM approved a massive development without due diligence: **“the elapsed time between the motion being tabled and then voted on was roughly one minute.”**
 - The RM and developer failed to deal with serious challenges: **“never satisfying the biggest impediment, the location of a water source. ”**
 - Reeve Eberle entered into an agreement with the developer worth \$58 million but **failed to disclose the extent of his interest and actively and secretly influenced the process**

Post-Sherwood (2015)

- **Amendments to *The Municipalities Act***
 - Financial interest sections revised:
 - DECLARE your interest
 - DISCLOSE key facts about your interest
 - DEPART from the room until discussion ends
 - AND DON'T DISCUSS the issue before, during, or after the meeting
 - Expanding financial interests to conflict of interest:
 - *Members are not to vote, deal, gain, or appear to gain private advantage out of matters over which the member supervises for the benefit of the public*
 - Meeting procedure bylaws
 - Employee code of conduct
- **Expansion of jurisdiction of Ombudsman**

Post-Sherwood (2016)

- **Mandatory Code of Ethics**
 - Sets out basic ethical standards for members of council
 - Being prepared by province in consultation with SUMA and SARM
 - Includes statements upholding honesty, objectivity, respect for public, employees, and other council members, transparency and accountability, and confidentiality
 - Will be included in *The Municipalities Regulations* - municipalities can adopt a code or will be deemed to have adopted the version in the regulations
- **Revised Oath of Office**
 - Qualified to hold office
 - Read, understand and will abide by the code of ethics, conflict of interest, and procedures set out in the act and municipal bylaws



Conflict of Interest

- ***Kruse v Sauter, 2015 SKQB 378***
 - Application against three separate council members – one involved council member who received \$544 from the village for 45 hours of work over two and a half years
 - Council member had from time to time filled in for a summer student who was tasked with opening municipal recycling bins for the recycling company
 - Court dismissed the application as financial interest was found to be “insignificant”

Conflict of Interest

- ***Shellbrook (Rural Municipality) No. 493 v Muller, 2015 SKQB 346***
 - The court dismissed the RM’s application against a council member
 - Council member failed to remove himself from council discussions on lawsuit he had brought against the RM
 - Legal action constituted a “pecuniary interest” and that the member’s insistence on participating was not inadvertence or an honest mistake
 - The court used its discretion to not remove the member but directed him to absent himself in future

Bylaws

- ***Duffield v Prince Albert (City)*, 2015 SKCA 46**
 - Appeal by hotel owners seeking to quash a bylaw prohibiting taxicab drivers from using drive-thrus at liquor outlets
 - Owners argued the bylaw intruded on the province's powers to regulate the sale of alcohol
 - The court noted presumption that a bylaw is a legitimate exercise of municipal powers unless proven otherwise
 - No evidence that the bylaw regulated the sale of alcohol or was in conflict or inconsistent with provincial legislation
 - Supreme Court of Canada dismissed application to appeal

Bylaws

- ***Baker v Sherwood No. 159 (Rural Municipality), 2015 SKQB 301***
 - Residents applying to quash a bylaw reimbursing council members for legal expenses related to the Sherwood inquiry
 - Bylaw cited section 355 of *The Municipalities Act* as the source of its authority, but had key differences:
 - The bylaw used “shall” while the act said “may”
 - The bylaw expanded coverage to any acts or omissions while the act limited it to liability claims
 - The court also considered the purpose why bylaw was adopted
 - While court noted the *Duffield* presumption that a bylaw is legitimate, quashed bylaw as exceeding powers

How to Win a Court Case

- **Know *The Municipalities Act***
 - **Section 340(1):** no liability in an action based on nuisance for any loss or damage arising from any public works or utilities
 - **Section 340(2):** no liability for damages resulting from the breaking or severing of a service pipe, service line or attachment
 - **Section 344(1):** no action is to be brought against a municipality for the recovery of damages after the expiration of one year from the time when the damages were sustained

How to Win a Court Case

- ***Stirrett v Hyas (Village)*, 2015 SKPC 163**
 - Owner sued village after sewer backup in rental home
 - Investigation revealed the sewer pipe was squished by a rock through natural ground movements and the squishing caused the pipe to freeze and back up
 - The court dismissed the action as the act barred nuisance actions and section 340(2)(b) applied to the squishing of the pipe

How to Win a Court Case

- ***Lohse v Lake Alma No. 8 (Rural Municipality), 2016 SKPC 25***
 - RM put in culvert on August 12, 2013, which immediately caused flooding of farmer's land
 - Farmer was aware of it the day it occurred and sent claim to SARM about damages dated October 28, 2013 but failed to serve a statement of claim on the RM until November 20, 2014
 - Although the full extent of damage was not known until later, the court held that the farmer knew he had sustained damage a year before the claim had been served

Court of Appeal Decisions to Watch

- **Prairie Valley School Division No. 208 v Town of Pilot Butte** (Hearing Date: May 9, 2016)
 - School division appeal of Saskatchewan Municipal Board decision that it was not exempt from a special assessment
- **Town of Willow Bunch v Fister** (Hearing Date: May 11, 2016)
 - Town's appeal of Queen's Bench Court decision that its actions in cleaning up nuisance exceeded its powers

Thank You

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