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)
    - Changes to Oath of Office and Code of Ethics (upcoming)

SUMA
SASKATCHEWAN URBAN MUNICIPALITIES ASSOCIATION
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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