



November 22, 2018

CODE OF ETHICS COMPLAINT DECISIONS

A regular meeting of Council of the Rural Municipality of McKillop No. 220 was held on Monday, November 5, 2018 in the council chambers at 103 Ashley Street, Bulyea, Saskatchewan.

At that meeting the following resolutions were passed pertaining to the recommendations of D.C. Strategic Management, an independent agency, hired by the RM of McKillop No. 220 to investigate a total of 11 Code of Ethics complaints filed against Reeve Howard Arndt, Councillor Norm Smith and Councillor Linda Helgeson.

"467/18 WILSON: That the RM of McKillop No. 220 accepts the recommendations of D.C. Strategic Management pertaining to the ethics complaints filed against Councillor Smith, Councillor Helgeson and Reeve Arndt and further that the RM of McKillop No. 220 notifies the affected parties.

Carried.

468/18 WILSON: That the RM of McKillop No. 220 authorizes the release of the ethics complaints based on the investigation carried out by D.C. Strategic Management and further a report will be publicly released, including the decisions and associated financial costs.

Carried."



Code of Ethics Complaint against
Councillor Norm Smith, Division 2

RE: Complaint concerning Councillor Norm Smith

Garry Dixon alleged that Councillor Smith was in breach of the pecuniary interest provisions of *The Rural Municipalities Act* in relation to actions taken by him between March 25 and June 5, 2015 to haul and place rig mats on behalf of the RM.

The RM engaged DC Strategic Management to conduct an independent arm's length investigation of the complaint. The investigators interviewed the complainant, Councillor Smith and Travis Herman, the Road Maintenance Foreman for the RM.

The investigators determined that the Council of the RM did in fact approve the purchase of the rig mats, but Mr. Smith did not have a pecuniary interest at this point in time. The work done by Mr. Smith was at the request of Mr. Herman when contractors were not available to do the work. The work was not tendered, but it was not possible to tender it because of the emergency situation that existed in the RM and the unavailability of contractors at the time. However, when he voted on the resolution to approve the payment of his invoice, Mr. Smith did have a conflict of interest. The investigators also determined that there was no evidence to suggest that Mr. Smith was acting from any dishonest motive as Mr. Dixon alleged, and it was clear that Mr. Smith was motivated by his desire to help his community.

While Mr. Smith should have removed himself from the voting with respect to the payment of his invoice, the investigators also concluded that this was an honest mistake, which is a defence to an application to disqualify a member of council based on a conflict of interest under *The Municipalities Act*.

As a result, Council has determined that the complaint be dismissed as it does not establish a contravention of the RM's Code of Ethics Bylaw, which was not in force at the time of the conduct complained of, and that no further action be taken because of the likelihood that an application to disqualify Mr. Smith would be dismissed by a Court.



Code of Ethics Complaint against
Councillor Linda Helgeson, Division 5

RE: COMPLAINT UNDER THE CODE OF ETHICS BYLAW CONCERNING COUNCILLOR HELGESON

June LeDrew, on behalf of the group called the RM 220 Ratepayers Association, alleged that Councillor Helgeson told Councillor LaBatte in a meeting prior to September 1, 2017 that she needed a funnel to get things into her head.

The RM engaged DC Strategic Management to conduct an independent arm's length investigation of the complaint. The investigators interviewed the complainant, June LeDrew, who was accompanied by Bob Schmidt and Garry Dixon, as well as Councillor Helgeson.

The investigators determined that the meeting where the statement was alleged to have been made was a closed meeting and no members of the Association were present. The investigators were unable to determine the circumstances of the alleged comment as a result.

The investigators determined that it is not appropriate for a third party to bring a complaint under the Code of Ethics about behaviour that they did not witness or that was not directed at them.

As a result, Council has determined that the complaint be dismissed as it does not establish a contravention of the RM's Code of Ethics Bylaw.



Code of Ethics Complaint against
Councillor Linda Helgeson, Division 5

RE: COMPLAINT BY GARRY DIXON CONCERNING COUNCILLOR HELGESON

Mr. Dixon alleged that Councillor Helgeson was in breach of the conflict provisions of *The Municipalities Act* because she did not remove herself from a discussion to examine a complaint made by the Ratepayers Association against her and then voted on a resolution to engage DC Strategic Management to investigate the complaint.

The RM engaged DC Strategic Management to conduct an independent arm's length investigation of the complaint. The investigators interviewed the complainant, Garry Dixon, as well as Councillor Helgeson.

The investigators determined that Councillor Helgeson's participation in the discussion about a general process to have ethics complaints investigated by an independent third party was not acting to "further" her private interests, within the meaning of the conflict of interest provisions contained in *The Municipalities Act*, and noted that her private interest would more likely have been better served by there being no independent investigation.

As a result, Council has determined that the complaint be dismissed as it does not establish a contravention of the RM's Code of Ethics Bylaw.



Code of Ethics Complaint against
Reeve Howard Arndt

RE: COMPLAINTS UNDER THE CODE OF ETHICS BYLAW CONCERNING REEVE HOWARD ARNDT

Complaint #1 dated September 22, 2017

Complaint #2 dated September 26, 2017

Complaint #3 dated September 28, 2017

Complaint #4 dated October 2, 2017

Complaint #5 dated October 4, 2017

Complaint #6 dated October 6, 2017

Complaint #7 dated October 6, 2017

Complaint #8 dated March 2, 2018

Complaints 1 to 5 all relate to various comments made by the Reeve at the September 1, 2017 special meeting of the Council of the RM of McKillop. Complaints 6 and 7 relate to comments made by the Reeve in a letter he wrote that was published in the Last Mountain Times.

The RM engaged DC Strategic Management to conduct an independent arm's length investigation of the complaint. The investigators interviewed the complainant, June LeDrew, who was accompanied by Bob Schmidt and Garry Dixon, as well as Reeve Arndt. Complaint #8 was reviewed by the RM's legal counsel in light of the analysis provided by DC Strategic Management in relation to complaints #1 to #7.

With respect to complaints #1 to #7, the investigators determined that:

- the Reeve did make the comment re the ratepayers "who at the end of the day will have to pay for this fishing trip" as alleged in complaint #1, but this language is not prohibited by s. 3.3.3 of the Code of Ethics because it is not discriminatory, bullying, harassing or derogatory as that provision requires;
- the Reeve did use the word "toxic" but it was not in relation to the ratepayers association of the petition, as alleged and therefore complaint #2 was not factually substantiated;
- the Reeve did speak to a variety of ratepayers after the petitions relating to the financial and management audits were presented Council but did not use the petitions as a source of names of persons to speak with and therefore complaint #3 that he attempted to unduly influence ratepayers in relation to the petitions was not factually substantiated;



Code of Ethics complaint against
Reeve Howard Arndt, continued

- the Reeve did state that the audits petitioned for would cost in the range of \$250,000 but he did not threaten a 15% tax increase for ratepayers; these comments do not fall within the categories of behaviour prohibited by s. 3.3.3 of the Code of Ethics nor do they represent a lack of leadership as defined in the Code, nor do they indicate a conflict of interest, and complaint #4 is not substantiated;
- the Reeve did make a comment "I double dog dare you" but it was not in relation to the petitions or the persons who signed them and therefore complaint #5 is not factually substantiated;
- the Reeve did refer to Councillor Kuderewko as the "good buddy" of Mr. Schmidt in the letter he wrote to the Last Mount Times and did refer to Mr. Schmidt and "his minions" but these comments do not fall within the parameters of the respect and leadership provisions of the Code of Ethics and therefore complaints #6 and #7 are not substantiated.

Complaint #8 relates to allegations that the Reeve:

- (1) lacked good faith in making a promise to another member of Council;
- (2) failed to respect the ratepayers who signed the audit petitions, and
- (3) failed to acknowledge that he might have had a bias or a conflict in relation to the financial and management audit petitions, which would have examined the actions of the RM.

The promise referred to in the first allegation is a promise to Councillor Kuderewko to include him in meetings with legal counsel and administration relating to the audit petitions. In fact, no such meetings took place and therefore there was no promise broken.

Allegation (2) is based on the premise that the Reeve had a duty to advise legal counsel about the "attestation statement" on the petitions. Whether or not he did have such a duty, he did in fact advise legal counsel of the error in her legal opinion. In addition, the Reeve's voting against the release of legal opinion provided to the RM is not evidence of bad faith. Every member of council is entitled to vote for or against any motion brought before them. The Reeve's statement that he thought the audits would cost \$250,000 is a matter addressed in the many other complaints made by the Ratepayers Association and is not a breach of the Code of Ethics.

Similarly, a conflict of interest is not established by a mere claim that a member of council might be biased or might have a conflict of interest. An examination of the actions of the RM does not affect the personal interests of any member of the council.

As a result, Council has determined that complaint #8 is also dismissed as it does not establish any contravention of the RM's Code of Ethics Bylaw.



FINANCIAL COST OF CODE OF ETHICS COMPLAINTS

DC STRATEGIC MANAGEMENT

DESCRIPTION	HOURS	PRICE/UNIT	PRICE
Project Management, Interview Prep, Interviews	89.00	\$175.00	\$15,575.00
Project Management, Admin, Interview Clean up	44.50	\$100.00	\$ 4,450.00
Expense – Meeting Room	3.0	\$212.82	\$ 638.46
Expense – Meeting Room	1.0	\$209.65	<u>\$ 209.65</u>
Subtotal			\$20,873.11
GST 5%			<u>\$ 1,001.26</u>
TOTAL			\$21,874.37



RASMUSSEN RASMUSSEN & CHAROWSKY

DESCRIPTION	HOUR S	PRICE
Emails	0.40	\$ 190.00
Review reports from DC Strategic Mngmt (DCSM), review Act 7 related judicial decisions, email Admin., review reports received and o/s complaint, prep for closed session council meeting, travel to and attend closed session mtg.	6.8	\$3,230.00
Review email response to complaint from councillor	0.10	\$ 32.50
Email from councillor, reply to councillor	.50	\$ 162.50
Review emails, RM 220 Code of Ethics Bylaw, Ethics complaints, new complaints, Ombudsman summaries, conflicts of interests in municipalities, internal corresp., meeting with DCSM, email DCSM background info	.40	\$ 680.50
Review new complaint against Reeve, review & respond To DCSM	.50	\$ 177.05
Attend closed session mtg. regarding ethics complaints, emails, internal office correspondence	3.90	\$ 1,267.50
Mileage		<u>\$ 69.06</u>
Subtotal		\$ 5,791.56
Taxes		<u>\$ 629.50</u>
TOTAL		\$6,421.06

GRAND TOTAL OF FINANCIAL COSTS FOR ETHICS COMPLAINTS

DC Strategic Management	\$21,874.37
Rasmussen Rasmussen & Charowsky	<u>\$ 6,421.06</u>
GRAND TOTAL	<u>\$28,295.43</u>