

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

May 3, 2011

Minutes of a special meeting of Council held on Tuesday, May 3, 2011 at 10:02 h. in the Municipal Hall.

1. CALL TO ORDER & MOMENT OF SILENCE

2. ROLL CALL

The following were present: Reeve Stewart Councillors: Dave Foote and Robert Reid.

Also in attendance: Ruth Morin, Treasurer; approximately 50 members of the public; 3 Ontario Provincial Police officers; news reporters from My FM, the Pembroke Observer and the NRT;

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

4. DEPUTATIONS/PRESENTATIONS – due to short notice of meeting – allowed through unanimous consent of Council (see section of Procedure By-law below)

“Notwithstanding Section 12.1, delegations not listed with the Clerk prior to the meeting may be heard upon unanimous consent of Council however; any decision shall be deferred on the matter in question until a staff report can be prepared for further consideration by Council or Committee.”

The Reeve had received a request from a member of the public to address Council; Councillor Foote expressed his opinion that this person should be heard; Councillor Reid didn't think there was any point in it; not having a unanimous decision Reeve Stewart declared that the deputation would not be heard.

- 5. CORRESPONDENCE AND PETITIONS –** At this point the Reeve stated “seeing none” at which point the Clerk brought the following to Council's attention.
- i. Deborah Grills – re: appeal to Council to reflect on their responsibilities for the greater good of the community
 - ii. Pam and Jean Charron – re: support for the letter of Deborah Grills
 - iii. Linda Chartrand – re: support for the letter of Deborah Grills
 - iv. Petition from Jim Gibson and Ed Aiston containing 110 signatures of HCM residents– re: demanding that Council place this matter in front of a judge for resolution

Council did not discuss or acknowledge any of the correspondence received.

6. UNFINISHED BUSINESS

- i. **Report #03/05/11/001 - Election Issues (report emailed to Council)**
- ii. **Report #03/05/11/002 – Election Issues Report part 2 (presented late at the table)**

Resolution # 03/05/11/001

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 25, 2011;

AND WHEREAS each of the five Form 4s received by the Clerk's office contain errors;

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 failure to meet the requirements of section 92 (5) by filing a document under section 78 or 79.1 that is incorrect or otherwise does not comply with that section; may result in the 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 opinion of our municipal solicitor that this issue should be brought before a judge for resolution and if the two individuals in question do not wish to proceed to have themselves reinstated that he believes Council should do so;

AND WHEREAS the failure to file the financial forms was simply an error due to a missed deadline and not an attempt to circumvent the legislation or commit fraud or deceit, in fact a mistake;

AND WHEREAS the failure to correctly complete the Form 4s was an error and not an attempt to circumvent the legislation or commit fraud or deceit, in fact a mistake;

AND WHEREAS continuing to conduct the business of this municipality without a resolution to this issue is not an option and is not in the best interests of the staff, residents or ratepayers of the Municipality;

AND WHEREAS it is the opinion of the Treasurer and municipal auditor that not having a judicial review and Court Order resolving this issue is putting provincial funding upwards of \$157,000 annually at risk;

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;

AND WHEREAS there is a precedent in the recent case of Thunder Bay where the filing deadline has been extended and the Mayor deemed to be in office for the entire time;

AND WHEREAS the municipal solicitor in his letter of April 27, 2011 has stated that any resolutions passed since the March 25, 2011 deadline could be retroactively approved through a Court Order as was done in Thunder Bay;

AND WHEREAS failure to bring this matter before a judge will simply result in continued costs to the municipality in wasted administrative time and legal fees which has already surpassed \$2,000;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby declare that the two seats have been forfeit and are vacant and further that it directs the Clerk to contact the municipal solicitor to have him commence an application to the court for the remedy he has suggested specifically to retroactively extend the filing date for the financial forms for the two members who failed to file by the deadline and additionally for all five municipal Councillors as their forms were filed with errors and declare that the seats are not forfeited and finally that Mr. Aiston, Mr. Gibson, Mr. Reid, Mr. Foote and Ms. Stewart have been Councillors throughout this entire time, i.e. since March 25th to and including the date of any decision;

Discussion ensued. When it became apparent that Reeve Stewart and Councillor Reid were not interested in discussing the additional information presented to them in the reports on the table and were not willing to change their minds, Councillor Foote left the meeting prior to the vote being called.

At this time, the Clerk stood and declared that without a quorum, no business of Council could be conducted and declared the meeting adjourned at 10:30 a.m.

7. ADJOURNMENT – (Resolution Prepared)

Resolution # 03/05/11/002

Moved by Councillor and seconded by Councillor

BE IT RESOLVED THAT this meeting adjourn at 1 h to meet again Friday, May 6, 2011 at 14:00 h.

Reeve – Tammy Lea Stewart

Melinda Reith – Clerk