

Type of Decision									
Meeting Date	Friday, August 12, 2011				Report Date	Wednesday, August 10, 2011			
Decision Required	X	Yes		No	Priority	X	High		Low
Direction	x	Information Only			Type of Meeting	X	Open		Closed
REPORT TITLE									
Invoice for Legal Expenses Report 12/08/11/1101									

Subject: Breakdown of invoice of municipal solicitor in relation to election finances situation.

RECOMMENDATION: That Council provide direction to staff for payment of the attached invoice.

WHEREAS in May of 2011 Reeve Stewart contacted the municipal solicitor for advice without the consent of Council;

AND WHEREAS as per direction of Council at the meeting of May 20, 2011 through resolution # 20/05/11/005 which directed the Clerk to advise the Municipal solicitor to clearly identify and separate the chargeable items on his invoice attributed to Reeve Stewart;

AND WHEREAS the attached is Mr. Instance's accounting of the matter, not including time spent responding to the Clerk's requests as a direct result of issues raised by Reeve Stewart through her private consultation;

THEREFORE BE IT RESOLVED THAT the Council of the United Townships of Head, Clara & Maria does hereby direct staff to pay the invoice of Mr. Instance in the amount of \$_____;

ADDITIONAL INFORMATION FOR CONSIDERATION:

Since before my employment with HCM the municipality has relied on the volume entitled "The Ontario Municipal Act: A User's Manual" for advice, direction and explanation of the Act through 'Comments of the provision' sections.

From page 270 of the 2007 edition (and included in subsequent volumes) following section 225 - Role of head of council are the following precedents. The citations are listed in the text book. Due to copyright I will only paraphrase here. If you would like the entire text, please see me about borrowing a copy of the act from the office.

1. The mayor's duty under former sections of the act to enforce the rights and laws of the municipality allowed that a reeve was allowed to authorize legal counsel to start a court action against private individuals... (This is the only citation is support of this action.)
2. A mayor may bind municipal council only if his or her actions are authorized by a majority of council....

3. Council does not have the authority to reimburse the reeve for her legal expenses when incurred outside the exercise of office. In personal capacity a reeve may bring an action against fellow council members but not with the public purse...
4. Reports were requested on behalf of the municipality by the mayor but without formal approval and permission of the whole of Council and the private parties so engaged were not able to collect their fees for services from the municipality.
5. A municipality was not held liable to pay a note signed by the mayor and treasurer due to lack of evidence of a by-law approving the contract or note.
6. There is a distinction between municipal employees and council members....the municipality cannot be held vicariously liable for private actions started by the reeve outside of the scope of their duties...

Financial Implications/Budget Impact: The invoice of Mr. Instance and his email to me have been attached for your information. Total invoice \$1,374.90; the amount attributed directly to Reeve Stewart \$316.40 for a difference of \$1,058.50.

Others Consulted: Bill Instance

Approved and Recommended by the Clerk

Melinda Reith,

Municipal Clerk

Melinda Reith