

Manitoba mbudsman

REPORT UNDER

THE OMBUDSMAN ACT

CASE FILE NUMBER 2014-0164

RURAL MUNICIPALITY OF WHITEMOUTH

REPORT ISSUED DECEMBER 22, 2017

CASE SUMMARY

Manitoba Ombudsman received a complaint from a group of citizens in the Rural Municipality of Whitemouth (the RM) regarding a decision to rebuild the Water Street Bridge. The complainants allege that there was a lack of public consultation regarding the project and that the RM did not provide adequate information to ratepayers. The complainant group also claim that the RM did not follow its purchasing/procurement policy, and did not have the authority to reallocate Disaster Financial Assistance (DFA) funds to the Water Street Bridge project. Finally, it is alleged that a councillor was in a conflict of interest when an item involving a family member came before council.

Based on our review, Manitoba Ombudsman supports the complaint in part. Overall our office found that the RM did undertake the proper procedures in approving the project and ensuring that the public was given consultation opportunities. We also made no finding of maladministration with respect to conflict of interest in a vote by a specific councillor. However, we did conclude that there were issues with respect to the following of purchasing/procurement policies and a lack of clarity in the use of DFA funding for the Water Street Bridge. Our office made four recommendations to the RM of Whitemouth.

OMBUDSMAN – ROLE AND RESPONSIBILITIES

Manitoba Ombudsman is an independent office of the Legislative Assembly of Manitoba, reporting to the assembly through the Office of the Speaker, and has a mandate as defined through the Ombudsman Act, the Freedom of Information and Protection of Privacy Act, the Personal Health Information Act, and the Public Interest Disclosure (Whistleblower Protection) Act.

Under the Ombudsman Act, Manitoba Ombudsman investigates administrative actions and decisions made by government departments and agencies, and municipalities, and their officers and employees. Investigations may be undertaken on the basis of a written complaint from a member of the public, or upon the ombudsman's own initiative.

Ombudsman investigations typically assess actions taken or decisions made against a benchmark established by government. Sometimes that benchmark is provincial legislation or a municipal by-law. On other occasions, it is written policy or established procedures implemented to give effect to legislative purpose.

A complaint can raise questions of procedural fairness, substantive fairness or relational fairness. Procedural fairness relates to how decisions are reached; the steps followed before, during and after decisions are made. Substantive fairness relates to the fairness of the decision itself and relational fairness relates to how people are treated during the decision making process.

While our office has a mandate to investigate complaints, the investigative process we follow is non-adversarial. We carefully and independently consider the information provided by the complainant, the decision maker, and any witnesses we determine to be relevant to the case. Administrative investigations can involve an analysis of statute or by-law provisions, document reviews, interviews and site visits.

THE COMPLAINT

Manitoba Ombudsman received a complaint from a group of citizens in the Rural Municipality of Whitemouth (the RM) with regard to decisions made by council to rebuild the Water Street Bridge. The complainants expressed a number of concerns regarding this project, including the affordability of the bridge project, the cost of the bridge in relation to the benefits it would provide, concerns about compliance with the RM's purchasing/procurement policy, the provision of adequate information to ratepayers, the provision of adequate public discussion of the project, and the reallocation of Disaster Financial Assistance (DFA) funds from Site 23 (a local road) to the Water Street Bridge project.

The complainants also allege that a municipal councillor was in a conflict of interest when an item involving the reimbursement of a family member for making a payment on behalf of the Water Street Bridge project came before the RM council. The complainants state that the councillor should have declared a conflict of interest and recused themselves from the discussion and vote on this item.

KEY ISSUES/QUESTIONS

In response to the complaint investigated a number of issues relating to the Water Street Bridge project (WSB) and River Road (Site 23) in order to determine the following:

- 1. Did the RM provide sufficient opportunities for public involvement in the discussion of the Water Street Bridge project?**

2. **Did the RM provide sufficient information to residents about the costs associated with the WSB project, including how funding would occur and how costs were calculated?**
3. **Was the process for obtaining quotes, tendering and awarding contracts for the WSB project consistent with the purchasing/procurement policy process of the RM?**
4. **Did the RM act in accordance with the DFA program when they requested that funds previously allocated to Site 23 for repairs to River Road be allocated to the WSB project?**
5. **Was a councillor in a conflict of interest when they did not recuse themselves from a council discussion involving the reimbursement of a family member for money they spent on advancing the WSB?**

SCOPE OF THE INVESTIGATION

Our investigation of this complaint included the following activities:

- A site visit to Site 23 and the Water Street Bridge
- An interview and subsequent discussions with the complainant.
- An interview with the CAO (now former CAO) and reeve
- An interview with senior officials at EMO
- An interview with the councillor in the alleged conflict of interest
- A review of the applicable DFA program guidelines, the RM purchasing/procurement policy, and the Municipal Council Conflict of Interest Act, and
- A review of the relevant council meeting minutes

BACKGROUND INFORMATION

Water Street Bridge

The Water Street Bridge is located on the edge of the village of Whitemouth and spans the Whitemouth River. The bridge was built in 1933 by a local dairy farmer and donated to the municipality.

The bridge was damaged by flood waters in 1997 and closed to road traffic in 2003. The bridge continued to deteriorate and was condemned in 2011. The bridge deck was eventually demolished, leaving only the support piers.

The loss of the bridge meant residents living immediately north of the bridge would need to take a seven-kilometre route to get to the village. However, the cost to replace and maintain the bridge was a concern to some local residents; most notably the former council members who voted to dismantle the bridge deck.

In September 2012, the council passed a resolution to “support in principle” the rebuilding of the bridge. The municipality created a bridge reserve fund in 2012 and levied property taxes to provide approximately \$28,000 annually for the fund.

In 2012, a citizen group (the Water Street Bridge Committee) was formed to advocate and raise funds for rebuilding the bridge. By October 2014, a local newspaper reported that the committee had raised just over \$270,000 with the expectation that further funds would be raised.

On January 8, 2014, the RM council passed a resolution expressing their intent to rebuild the bridge.

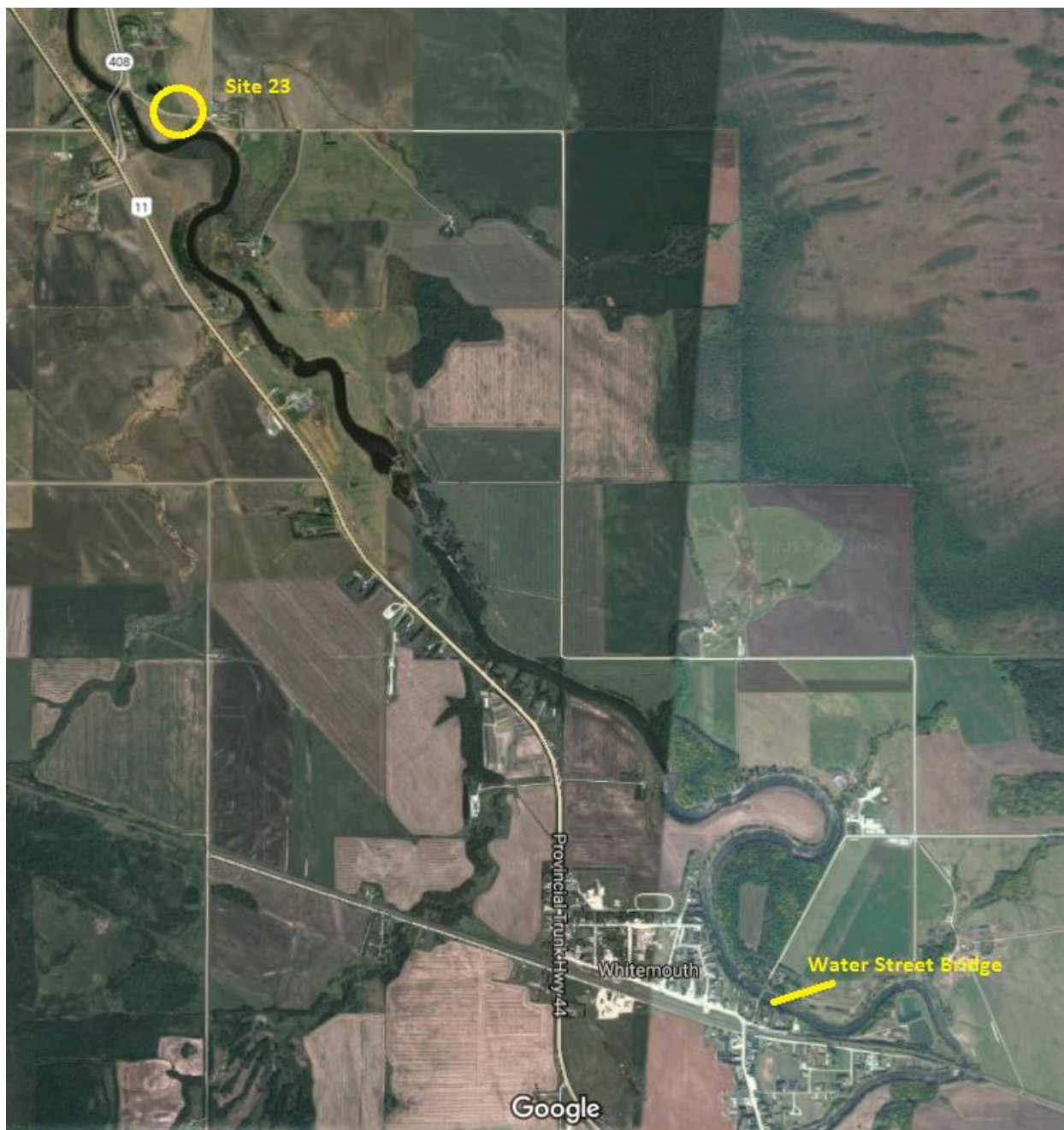
Site 23

Site 23 is part of an unimproved municipal road (River Road) northwest of the village of Whitemouth. This road connects with Provincial Road 408, which crosses the Whitemouth River and provides a connection with Provincial Trunk Highway 11. This part of River Road was damaged due to heavy rains that occurred in May 2010. The map on the following page shows the location of the road and the Water Street Bridge.

The RM applied for Disaster Financial Assistance to repair the road. Looking at options for Site 23, the RM attempted to obtain land from a nearby farm owner in order to move the road in 2010. However, the landowner was not receptive to providing this land within a budget acceptable to the RM. The RM identified other issues with repairs to the Site 23 area.¹

An engineering firm (which had been retained by the Water Street Bridge Committee) put forward a proposal in December 2010 that the traffic carried by Site 23 could be re-routed across a rebuilt Water Street Bridge. The RM subsequently endorsed this solution as an alternative to repairing Site 23 in their request to have DFA money allocated to the Water Street Bridge project. As is discussed further in this report, EMO permitted this allocation and provided the DFA funds to the RM.

¹ This includes the width of the road, the frequency of wash-outs, the instability of the general area, and the likelihood that repair costs would exceed the original estimates.



Source: Google Maps/Manitoba Ombudsman

DFA Funding

The DFA program is meant to be flexible and to respond quickly when disasters occur. A federal-provincial cost-shared program, DFA is administered by the Emergency Measures Organization (EMO).

As part of this program, however, applicants can suggest other solutions to repairing damaged infrastructure. In this case, the RM stated that funds that could be used to repair Site 23 would be

better spent rebuilding the Water Street Bridge. In addition to the other problems identified with Site 23 (frequent wash-outs, continued slumping, proximity to the Whitemouth River, a low-visibility rail crossing, and a concern that the existing road could not handle increasing traffic), the RM stated that the Water Street Bridge would be an innovative alternative to repairing this troubled section of road.

Given the information provided by the RM, EMO in 2013 approved the use of the \$770,000 (originally set aside to repair Site 23) to rebuild the Water Street Bridge. It was estimated the bridge would cost \$1.3 million to build.

ANALYSIS OF ISSUES AND EVIDENCE

1. Did the RM provide sufficient opportunities for public involvement in the discussion of the Water Street Bridge Project?

The Water Street Bridge has been an issue of contention in the area for a number of years. Just as there are citizens who question the need for, and affordability of, rebuilding the bridge, there were citizens who opposed the closure and demolition of the original bridge.

In this case, an allegation has been made that the RM council did not provide adequate opportunity for opponents of the Water Street Bridge project to present their concerns to the RM council or to the general public. As a matter of procedural fairness, it is important that the RM council inform the general public of its intended activities and provide opportunities for those who support and oppose these actions to comment on these decisions in a timely manner. There are a number of situations cited in the Municipal Act that require public hearings or a public presentation of plans in order to receive feedback.

Opponents to rebuilding the Water Street Bridge made an oral and written presentations at the March 26, 2014 meeting of the RM council. Notes from the council meeting indicate that the presentation prompted discussion among council members. In addition to the presentation to council, the agendas and minutes from various council meetings note that there were a number of items related to the bridge construction project between 2012 and 2014.

According to the reeve, the reconstruction of the bridge was one of the topics debated in the course of the October 2014 municipal election.

The RM of Whitemouth hosted a public forum at the Whitemouth Community Centre on November 4, 2014 to provide an opportunity for residents of the area to speak on the RM's decision to proceed with rebuilding the Water Street Bridge. According to the RM, approximately 120 people were in attendance. Opponents of the bridge project attended this public forum and presented their concerns to those in attendance.

Given these facts, Manitoba Ombudsman finds that opponents of the Water Street Bridge project were provided with a reasonable opportunity to present their concerns to the RM council and in a number of public forums.

2. Did the RM provide sufficient information to residents about the costs associated with the WSB project, including how funding would occur and how costs were calculated?

Although there is some debate over the need for the Water Street Bridge, original engineering estimates to replace the bridge were between \$1.3 million and \$1.6 million. The final price for the bridge came in at \$1.3 million.

When the process regarding the bridge began in 2012, it was estimated that private fundraising through the Water Street Bridge Committee would be able to provide \$270,000 for the project. A special levy on property taxes was also created to support a reserve fund for the bridge. As is required, the by-law to establish the special levy was conducted publicly through the RM council.

According to statements in the media, the RM was also seeking funding for the bridge from federal and provincial governments. Although there were several attempts made to secure major funding from a variety of programs, the RM was unsuccessful in obtaining funds from these sources. Some funds to enable the detailed engineering designs for the bridge (\$27,500) were provided by the Manitoba government to the RM.

Without funds available from another source, the RM would need to borrow money to complete this project, which would mean increasing property taxes to repay the loan. However, the RM saw an opportunity to use the \$770,000 of DFA funding that was allocated by EMO to repair the damage to Site 23 for the Water Street Bridge.

Subsequently, the RM council was able to present local taxpayers with a bridge reconstruction plan as part of the 2014 Financial Plan that would require no new borrowing and no significant increase in property taxes. With the \$770,000 from DFA and \$270,000 raised by the Water Street Bridge Committee, the RM would be able to meet the required \$1.3 million to rebuild the bridge.

It should be noted that all financial plans must be given a public hearing to receive feedback from the public. The 2014 Financial Plan was subsequently adopted by council on April 30, 2014.

However, since the start of the project, the estimated cost for the bridge had increased from \$1.3 million to \$1.9 million. The RM was able to apply to the Municipal Bridge Program, which is part of Manitoba's Building and Renewal Plan, for a significant portion of the remainder. The RM was notified, in a letter dated March 4, 2015, that they were to receive \$500,000 in provincial funding for the bridge. The Manitoba government announced their contribution through public signage.

In reviewing the evidence it is our view that details related to the costs of this project and potential funding options explored, as described above, were provided to the general public by the RM.

3. Was the process for obtaining quotes, tendering and awarding contracts for the Water Street Bridge project consistent with the purchasing/procurement policy process of the RM?

According to the Municipal Act (subsection 251.1), all municipalities are required to have a purchasing/procurement policy to guide the purchase of goods and services. This policy, which can be passed by resolution or by-law, requires the municipality to follow a process that respects the principles of equity, fair competition and transparency. This policy must also follow provincial legislation with regard to the criteria for soliciting bids, the competitive process, and the awarding of contracts. The policy must also comply with the tendering and procurement rules established by the Agreement on Internal Trade.

To assist municipalities with this matter, the *Municipal Act Procedures Manual* provides a template policy for municipalities to use when creating their own policy. The RM of Whitemouth passed its purchasing/procurement policy on February 10, 2010 (Resolution 64/10) and it was amended by Resolution 58/12 on February 8, 2012.

In this instance, there is no evidence to indicate that the engineering firm used for the design and management of the bridge reconstruction was selected through a competitive process. This was a significant project and, according to the RM's purchasing/procurement policy, it should have been put up for tender.

The policy states that for purchases of and in excess of \$6,000, tenders or requests for proposals shall be used. According to the invoices provided by the RM, the engineering firm undertook work to a value of \$74,682.53.

Payments to Engineering Firm by the Water Street Bridge Committee

The RM's purchasing/procurement policy also states that all purchases shall be authorized by council, either through the budget approval process or a motion passed in an open meeting of council.

Prior to the approval of this project by the RM, the engineering firm was doing work for the Water Street Bridge Committee and the firm received payments from members of the bridge committee. An invoice from the firm, dated June 21, 2012, was issued to both the Water Street Bridge Committee and the RM.²

The evidence we reviewed indicates that the Water Street Bridge Committee, which was set up by local residents to raise funds for the bridge, was making expenditure decisions on behalf of the RM. This practice is contrary to the RM's purchasing/procurement policy, which states that any expenditures must be made in accordance with the process indicated by the dollar amount of the purchase. There are no circumstances where a non-employee is allowed to make purchases on behalf of the RM.

² This invoice also notes that the RM and the Water Street Bridge Committee each provided the engineering firm with a retainer of \$2,500, which is shown as a credit in this invoice.

On January 14, 2015, the RM council debated and passed two motions involving the reimbursement of funds spent by members of the Water Street Bridge Committee for services provided by the engineering firm. Resolution 5/15 reimbursed an individual for \$13,000 for a payment to the engineering firm made on September 6, 2012 for “the Geo-Tech Project for the Water Street Bridge.” A second resolution (8/15) reimbursed a private company \$2,500 for the February 29, 2012 payment to the engineering firm “for the retainer of services.”

Even if it were an acceptable practice to allow non-employees to spend money on behalf of the RM with the expectation of later reimbursement, there is no record of any resolutions approving these expenditures before they were made.

The RM council and administration has the responsibility to ensure that public finances are properly controlled and that money is only spent if proper processes are followed. In addition to allowing the Water Street Bridge Committee to effectively select the engineering firm that would manage the bridge project without going to tender, the RM reimbursed individual members of the committee for expenditures that were made without clear authorization by the RM council. These are not acceptable practices in public administration.

4. Did the RM act in accordance with the DFA program when they requested that funds previously allocated to Site 23 for repairs to River Road be allocated to the WSB project?

As stated earlier, the DFA program is a cost-shared program administered by EMO and intended to be used to repair damages from natural disasters, such as the heavy rains that resulted in damage to Site 23.

The program is intended to be flexible and to operate quickly while minimizing bureaucratic controls. Funding for alternative approaches will be considered on a case-by-case basis when the repair of the original disaster site is impossible or when a better alternative is available. As previously noted, the RM applied for Disaster Financial Assistance to repair Site 23 in 2013. The road was an important transportation link for the community as it allowed vehicle traffic to travel across the Whitemouth River and connect with Provincial Trunk Highway 11.

However shortly after making its application for funding to fix the road, the RM put forward a different plan to EMO. A review of the 2012 correspondence between the RM and EMO, indicates that the RM was of the opinion that the road traffic carried by River Road at Site 23 would in fact be better accommodated by the Water Street Bridge. Further, the RM notified EMO that it would be difficult to repair Site 23 because a local farmer refused to sell land that would be needed to relocate the road, for a price that could be accommodated. The RM also noted that Site 23 was subject to frequent wash-outs and was not made to handle the level of traffic currently using the road.

It is the position of the RM that the Water Street Bridge was an “innovative solution” to the difficulties they faced in repairing Site 23. The RM indicated that the \$770,000 of DFA money should be reallocated to the Water Street Bridge. We note that the RM had previously been

unsuccessful at obtaining federal or provincial grants to support the reconstruction of the bridge. This reallocation of DFA monies would mean that the municipality would be able to finance the bridge project with borrowing money or increasing taxes.

Given the information supplied by the RM, and in accordance with established provincial policy, officials at EMO deferred to the local authority and approved the use of these funds to the RM. EMO advised our office that it was their belief at the time that the RM would not be repairing Site 23 for the reasons it cited in its 2012 submission. However, the RM ultimately decided to repair Site 23 using their own funds. According to information supplied by the RM, the municipality spent approximately \$18,000 in 2013 to repair Site 23.

In the October 24, 2014 edition of *The Clipper*, a local newspaper, it is reported that a RM councillor “stated that the original quote to repair the River Road slide was high. After further investigation, the damage was repaired at a significantly lower cost. [The councillor] said because the province had already approved the original amount, they authorized the RM to allocate funds to other infrastructure projects in the municipality.”

EMO advised our office that it was clear that if the RM was to repair Site 23, DFA funding should have been used for that repair in accordance with the RM’s original claim for damages (and as originally approved). EMO noted that DFA funding is based on actual costs so if the RM had used this funding for Site 23 and it had cost them less than the \$770,000 to repair it, any excess funds would have been returned to the government.

EMO also stated that while not explicitly part of the agreement to reallocate DFA monies to the Water Street Bridge project, EMO was of the understanding from the documentation provided by the RM that the road was not worth fixing and that was part of the basis for reallocating the money.

Regardless of arguments for or against the use of the Water Street Bridge as a replacement for those who had used Site 23, it is clear that the RM was of the opinion that the total sum set aside for the Site 23 repair (\$770,000) would be better used for the Water Street Bridge project.

Municipal councils have the legislative authority and discretion to make decisions they believe are in the best interest of their community. This would include decisions with respect to capital projects and how public monies should be spent.

However, it is important that such actions are carried out in a way that is transparent and accountable, particularly when it comes to large infrastructure projects that can have a significant impact on the community.

In this case, it appears the RM did not clearly understand the parameters of DFA assistance and how funds received under this program should be used. The evidence suggests that the RM considered the DFA funding for Site 23 as money that they could use at their own discretion. Their subsequent decision to repair Site 23 after advising EMO that it was not worth repairing also indicates a lack of clarity between EMO and the RM as to what conditions existed in reallocating those funds to the Water Street Bridge project.

It would also appear that the actions of the RM created the perception among some in the community, specifically those who supported the road repair project, that it never intended to use the DFA monies to fix the road. It is possible that this created an atmosphere of mistrust which may have caused proponents of the Site 23 repair project to subsequently question the costs and level of public consultation related to the Water Street Bridge project.

These types of large capital projects, particularly when there are competing interests, can be contentious. It is therefore important that local councils be clear to residents as to their intentions. While it is understandable that plans may change, it is important the public is made aware of the change and the reasons for it.

We also note that clarity is important when it comes to the administration of programs such as DFA. The rules governing expenditures under this program allows monies to flow quickly and in a flexible manner to assist in the recovery from disaster. However to work effectively and efficiently, a level of trust needs to exist between EMO, the organization that runs the DFA program, and municipalities who benefit from this program. EMO relies on municipalities to be accurate and complete when they provide information on the disaster-related activities so available funding can be allocated in a fair and appropriate manner.

5. Was a councillor in a conflict of interest when they did not recuse himself from a council discussion involving the reimbursement of a family member for money they spent on advancing the WSB?

The Municipal Council Conflict of Interest Act (MCCIA), the *Municipal Act Procedures Manual* published by Manitoba Municipal Relations, the *Council Members Guide* published by the Association of Manitoba Municipalities, the RM of Whitemouth Code of Conduct, as well as our guide, *Understanding Fairness: a Handbook on Fairness for Manitoba Municipal Leaders*, all provide guidance on the benchmarks and standards related to conflicts of interest.

The MCCIA sets out standards related to conflicts of interest on the part of municipal officeholders. In addition to defining direct and indirect conflicts of interest, the act requires the declaration of any conflicts of interest and the recusal of officeholders from participating in debates, discussions or votes.

As well, a declaration and recusal must be recorded in the minutes each time a “conflicted” item is raised. The absence from a meeting does not exempt an officeholder from the requirement to declare a direct or indirect conflict of interest.

It is important that the MCCIA is not viewed as a complete code of ethical behaviour for council members. This fact is recognized in section 84.1 of the Municipal Act, which requires each council to establish a code of conduct “to set guidelines that define the standards and values that the council expects members to meet in their dealings with each other, employees of the municipality and the public.” Judicial decisions also note the difficulty, if not the impossibility, of writing an ethical code that covers every situation or circumstance.

In this case, Resolution 5/15 was brought before the RM council during a regular meeting on January 14, 2015. The resolution, which was to reimburse an individual for money paid to an engineering firm working on the WSP project, was carried by council without a recorded vote. The individual being reimbursed was a close family member, but not a dependent, of one of the councillors.

The councillor advised our office that as a recently elected member of council at the time, they were unfamiliar with the provisions set out in the MCCIA and the process that should be followed when conflicts of interest arise. The councillor stated that, as a new member of council, there were many things to learn about the duties, requirements and responsibilities of this elected office. The councillor stated that they received no specific training on the MCCIA or dealing with conflict of interest issues.

Although the councillor did not declare a conflict of interest and recuse themselves from the discussion of this item as required by the MCCIA, the councillor stated that they did not vote on the item. The councillor could not recall if they participated in the discussion on the item or not but stated that the resolution was “just a formality,” indicating a lack of discussion on the item. Other councillors noted that there was no discussion on this item.

Although the councillor did not know about the recusal process set out in the MCCIA (or other issues regarding conflicts of interest), the councillor knew enough to abstain from voting on this item. Unfortunately, the lack of a recorded vote³ in the council minutes means that the councillor’s abstention was not documented.

While there may be concerns with regard to the overall process that brought this item to the council floor, our office could not find any specific evidence showing that the councillor voted on the item. That said, the RM council needs to ensure that all members of council understand their obligations with regard to avoiding conflicts of interest and the provisions set out in the MCCIA.

CONCLUSION

Based on our review of the evidence, Manitoba Ombudsman supports the complaint in part. Our office is satisfied that the RM provided sufficient opportunities for opponents to the Water Street Bridge to express their views to council members and the general public. Our office is also satisfied that the RM provided the general public with sufficient information regarding the costs of this project and options for financing.

Although Manitoba Ombudsman is concerned that a councillor did not follow the process set out in the MCCIA to declare a conflict of interest and recuse themselves from a council item involving a close family member, the office acknowledges that the councillor states that they did

³ It should be noted that the majority of decisions made by RM Councils are done without a recorded vote. A council member can request a recorded vote and there are many decisions, as specified in *The Municipal Act* and elsewhere, where a recorded vote is required.

not vote on the item and that any debate on the item was minimal. As stated earlier, we could not find any evidence that the councillor voted on this item.

Manitoba Ombudsman supports the complaint with regard to the failure on the part of the RM to follow its own purchasing/procurement policy when it came to the selection of an engineering firm for the management of a significant project.

Our office is also concerned that the RM would reimburse individuals for making payments on behalf of the RM without the specific authority and approval to do so. This is an unwise practice that should not be allowed to continue.

It is also our view that the RM was not clear in its dealings with EMO with regard to the reallocation of DFA money intended to repair Site 23 for the rebuilding of the Water Street Bridge. EMO relied on the RM when they stated that Site 23 was unrepairable and that rebuilding the Water Street Bridge was the best solution for those who used the Site 23 road.

Clearly, there is an issue with the way that the RM obtained DFA funds to finance the construction of the Water Street Bridge.

RECOMMENDATIONS

Subsection 36(2) of the Ombudsman Act sets out the ombudsman's authority to make recommendations as a result of an investigation. In light of the findings from this investigation, we make the following recommendations to the RM of Whitemouth:

Recommendation 1: The RM of Whitemouth needs to ensure that council members and administrative staff are aware of, and comply with, the RM's purchasing/procurement policy.

Recommendation 2: The RM of Whitemouth must reaffirm the policy that clearly states that public funds are only spent by the RM on items that have been acquired through the use of the purchasing/procurement policy. The practice of reimbursing individuals for monies they spend on public purposes without the authority or prior approval of the RM council should be discontinued.

Recommendation 3: The RM of Whitemouth should arrange a training session for all council members and senior staff on conflict of interest issues as well as the declaration and recusal process set out in the MCCIA.

Recommendation 4: The RM of Whitemouth should contact EMO to determine what discussions, if any, should flow from the findings of this investigation regarding this use of DFA funds. This could include training on how DFA funding can be properly used by municipalities and the obligations assumed by municipalities when receiving these funds.

THE RM's RESPONSE

The ombudsman's report was considered by the RM council during regular meetings on December 6, 2017 and December 20, 2017. The following is the RM's response to the report and its recommendations taken from correspondence to Manitoba Ombudsman from the RM dated December 7, 2017 and December 21, 2017.

Recommendation 1: Council agrees with this recommendation and has already been implementing same.

Recommendation 2: Council agrees with this recommendation and has not been purchasing without prior approvals.

Recommendation 3: Council has now been educated in this regard and believe that a briefing on the Municipal Council Conflict of Interest Act (MCCIA) would be beneficial for all newly elected officials next fall.

Recommendation 4: Both Council and Administration would welcome meeting with Emergency Measures Organization/Disaster Financial Assistance to learn more about their criteria/processes. We truly appreciate their expertise and would have been receptive to their guidance.

On the issue of repairing the Site 23 road, the response from the RM further states:

As added information on the funds utilized (\$18,500.00) on Site 23 in 2013, again we must reiterate that in no way was this repaired. It was solely to have a safe road way for local traffic. It should be noted that at this particular time the bridge was not a confirmed project so Council felt compelled to provide a safe roadway.

On the issue of decommissioning the Site 23 road, the response also states:

Their letter advising of the \$770,000 funds does not state this [the decommissioning of the Site 23 road] as a contingency or a condition. This Council is unaware of any documentation which directed this be done. In no way did this municipality mislead the Emergency Measures Organization personnel that the Site 23 road would be closed; this was not an item discussed.

Ombudsman's Note: The RM is correct that EMO did not make an explicit direction regarding the decommissioning of Site 23. However, the RM, in its correspondence with EMO, emphasized the poor condition of the road and implied that it was not worth fixing. A lack of clarity between EMO and the RM as to what conditions existed in reallocating those funds to the Water Street Bridge project affirms the need for Recommendation 4.

MANITOBA OMBUDSMAN