

The Rural Municipality of Manitou Lake # 442

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May 25th, 2019

The cost for the completion of the following report was \$4543.32 including all taxes.

This report was accepted in its entirety by the Council of the RM of Manitou Lake # 442 on June 6th, 2019 at the regular meeting of Council.

**Code of Ethics Complaint 19-001 - Investigation Report
Rural Municipality of Manitou Lake, No. 442**

**Prepared by:
Holly M. Hobbs, IPMA-ACP
Independent Human Resources Consultant**

May 24, 2019

A. INTRODUCTION

The Rural Municipality of Manitou Lake No. 442 (the RM), on December 17, 2018, received a Code of Ethics Complaint. The Complainant was Robert (Bob) Walde, former Councilor and the Respondents were Ian Lamb (Reeve), Joe Koch (Councilor, Division 6), Norman Wright (Councilor, Division 3) and Kevin Bossert (Former Councilor, Division 4). The Complaint was regarding the work of the Human Resource Committee following the receipt of the *Knibbs/associates HR Consulting Reports of Lamb vs. Walde and Lamb vs. Swanstrom* (the Reports), both dated March 2018.

Council proceeded to hire an Independent Human Resources Consultant to conduct an investigation of the Complaint and determine whether or not the Complaint was founded.

B. MANDATE

1. Meet with the Complainant and Respondents.
2. Meet with the Chief Administrative Officer
3. Meet with or contact any other relevant individual(s) as necessary.
4. Review the relevant legislation, policies, and bylaws, as well as any other pertinent documents, that may apply to the RM.
5. Provide the report to Administration and the Board on findings and conclusions.
6. This project is to commence on March 15, 2019 and will continue until the completion of the full report of findings and conclusions has been submitted.

C. THE COMPLAINT

The Complaint is written on Schedule "A" Formal Complaint Form and has two attachments. (Attachment #1)

- This was a Code of Ethics complaint based on Dishonesty. It states: "it was extremely dishonest of Reeve Ian Lamb, Councilors Joe Koch, Norman Wright and Kevin Bossert to pretend they had the right to decide on sanctions against councilors." The Complainant further stated the recommendation the HR Committee put forth is way outside their mandate."
- The resolution sought was to have "every motion stemming from a recommendation of the HR Committee, not to do with employees as prescribed by their mandate, needs to be declared null and void."

Responses

- Joe Koch, Respondent, provided a written response to the Complainant (Attachment #2)
- Norman Wright, Respondent, provided a written response to the Complainant (Attachment #3)
- Ian Lamb and Kevin Bossert, Respondents, chose not to respond to the written Complaint.

D. INTERVIEWS

Interviews were conducted in person with the following:

March 18, 2019:

- Bob Walde – Complainant and former Councilor Division 2
- Joanne Loy – Chief Administrative Officer

March 19, 2019:

- Ian Lamb – Respondent and Reeve
- Kevin Bossert – Respondent and former Councilor, Division 4
- Norman Wright – Respondent and Councilor, Division 3

April 24, 2019:

- Joe Koch – Respondent and Councilor, Division 6

Telephone interview was conducted on April 26, 2019, with:

- Calvin Giggs, Temporary CAO who was in that position when the Reports in question were received

E. CHRONOLOGY OF EVENTS

January 13, 2011

- At the January 13, 2011 meeting of Council, Lamb put forward a Motion (11/021) it stated: "That the RM of Manitou Lake establish a Human Resources Committee to hear employee concerns, suggestions, and grievances, to perform employee evaluations, make recommendations to Council as a whole regarding employee performance, wages and benefits, and to make recommendations to Council as a whole on the employee concerns, suggestions, and grievances; and That Travis Lindsay, James Czerniak, Farah McIntosh, and Mona Gordon be appointed to the Human Resources Committee (the HR Committee)." This Motion was Carried. (Attachment #4)

January 11, 2018

- At the January 11, 2018 Council Meeting, Koch put forward a Motion (18/044), it stated: "That the RM of Manitou Lake Council following the recommendation of SARM's Legal Department contract Knibbs/associates HR Consulting to conduct an independent impartial investigation on the Council Code of Ethics complaints on two RM Councilors and that if Knibbs/associates HR Consulting is unavailable SARM's Legal Department be requested to provide further recommendations." This Motion was Carried. (Attachment #5)

March, 2018

- The Investigation Reports which were completed by Knibbs/associates HR Consulting, for the Code of Ethics Complaints of Lamb vs Walde and Lamb vs. Strom, were received by the main email of the RM.
- The Acting CAO, received the Reports.
- The Acting CAO opened the email, read the reports and then made the decision to send them to the HR Committee. He felt it was an HR Issue to look at and make recommendations to Council.
- The Acting CAOs contacted the Reeve (Ian Lamb, Respondent) to advise him of this. The Reeve indicated that as he was the one who filed the complaints that resulted in the Reports received, he did not want anything to do with it.
- The Acting CAO called a meeting of the HR Committee.

April 3, 2018

- The HR Committee held a meeting on this date.
- Due to the absence of the Reeve, the Acting CAO called for nominations for a Chairperson. The Chairperson was appointed via a nomination process. Kevin Bossert was nominated and assumed the Chair.
- The Reeve was not replaced on the HR Committee at that meeting.
- The Acting CAO remained for the meeting and took notes.
- The HR Committee went in-camera for the purpose of:
 - o "reviewing, complete with the potential of making recommendation(s) to Council from the Investigation / Summary reports of the Code of Ethics complaints heard by Knibbs/associates – Lamb vs Swanstrom and Lamb vs Walde."
- The HR Committee came out of the in-camera session and had prepared recommendations to go to Council for both Reports.
(Attachment #6)

April 19, 2018

- At the Council meeting, Wright put forward a Motion (18/133). It stated:
 - o 'That the RM of Manitou Lake Council No 442 accept the recommendations or the RM of Manitou Lake No 442's Human Resource Committee with regard to the investigation report of the Code of Ethics Complaint from Knibbs/associates – Lamb vs Walde – being the following remedial actions be applied to Councilor Bob Walde:' It went on to state four recommendations.
- The vote was recorded with four voting For, none Against, and one Abstained and was therefore Carried. Reeve Lamb and Councilor Walde were not present for the vote.
- A second Motion was put forward (18/135) by WRIGHT:
 - o The language contained was identical with the exception of the name was Swanstrom as opposed to Walde.
- The vote was recorded with four voting For, and one Against and was therefore Carried. Reeve Lamb and Councilor Swanstrom were not present for the vote.
(Attachment #7)

January 10, 2019

- At the Council meeting, Paterson put forward a Motion (19/037). It stated:
 - o That Motions 18/133 against former Councilor Bob Walde and 18/135 against Councilor Rick Swanstrom passed at the April 19, 2018 Special Meeting of Council be considered void as it appears the review of the Knibbs Reports and subsequent recommendations made by the Human Resource Committee is out of the Human Resource Committee mandate and policy. This Motion was Carried.

- At the Council meeting, a NOTE was added by CAO Joanne Loy, it advised Council to send the Code of Ethics Complaint regarding the actions of the Human Resource Committee, in its entirety, to Holly Hobbs, IPMA-ACP for review to ensure impartiality by Council.

- At the Council meeting, Graham put forward a Motion (19/038). It stated: That the Code of Ethics Complaint, 19-001 regarding the actions of the Human Resource Committee in relation to motions 18/133 against former Councilor Bob Walde and 18/135 against Councilor Rick Swanstrom be sent to Holly Hobbs, IPMA-ACP, for review and determination if the actions are a Code of Ethics violation. This Motion was Carried.
(Attachment #8)

F. HUMAN RESOURCES COMMITTEE RECOMMENDATIONS TO COUNCIL SINCE JANUARY OF 2016

April 6, 2017

- 17/082 - "that the RM of Manitou Lake Council accept the recommendation of the Human Resources Committee to terminate the Joint Administration Agreement with the Village of Marsden in accordance with Section 6 of said Agreement with the final day being August 31, 2017" - Carried

June 15, 2017

- 17/174 - "that the RM of Manitou Lake Council accept the HR Committee recommendations and hire Summer Students Sierra Ottenbreit to complete Weed Mapping and Residential Addressing at a rate of \$18 per hour and hire Alie Snell to complete Cemetery Data Collections and Program Data input at a rate of \$18 per hour plus \$0.90/km when visiting the cemeteries with the start dates to be determined with each individual" – Carried

December 7, 2017

- 17/331 - "that the RM of Manitou Lake No. 442 Council accept the HR Committee's recommendation to lay off employee Colton Ridsdale effective November 30, 2017 and be given two weeks pay in lieu of notice as per *The Labour Standards Act* sect. (44.1)" – Carried

- 17/332 – “that the RM of Manitou Lake No. 442 Council accept the HR Committee Recommendations for employee wage increases as follows: ...” – Carried
- 17/332 – “that the RM of Manitou Lake No. 442 Council adept the HR Committee recommendations that James Czerniak have a status change to permanent full-time employment commencing January 1, 2018 ...” – Carried

March 8, 2018

- 18/078 – “that the RM accept the Human Resources Committees recommendation to have a mutually agreed upon third party, being Synergy Credit Union, to have the RM of Manitou Lake’s associated information retrieved from the RM’s Ipad currently in the possession of the Division 2 Councilor” – Carried

April 19, 2018

- 18/133 – “that the RM of Manitou Lake Council No 442 accept the recommendations of the RM of Manitou Lake No 442’s Human Resource Committee with regard to the investigation report of the Code of Ethics Complaint from Knibbs/associates – Lamb versus Walde – being the following remedial actions be applied to Councilor Bob Walde: ... ” – Carried
- 18/135 – “that the RM of Manitou Lake Council No 442 accept the recommendations of the RM of Manitou Lake No 442’s Human Resource Committee with regard to the investigation report of the Code of Ethics Complaint from Knibbs/associates – Lamb versus Swanstrom – being the following remedial actions be applied to Councilor Rick Swanstrom: ... ” – Carried

June 7, 2018

- 18/181 – “that the RM of Manitou Lake Council accept the HR Committee recommendation and hire Summer Student Mariah Nattress to assist with Weed Mapping and Residential Addressing at a rate of \$18 per hour with an effective start date of June 1, 2018” – Carried
- 18/182 – “that the RM of Manitou Lake Council accept the HR Committee recommendation and hire Summer Student Jordan Czerniak to assist with Cemetery Program date verification and file room organization at a rate of \$18 per hour with an effective start date of July 2, 2018” – Carried

December 6, 2018

- 18/367 – “that the RM of Manitou Lake Council No 442 Council accept the HR Committee recommendations for employee wage increases as follows: ...” - Carried

G. DOCUMENTS REVIEWED

1. Human Resources Committee Policy (Attachment #9)
 - On January 13, 2011 the HR Committee was established. (See Attachment #4)
 - On December 7, 2017, 17/330 – the Human Resources Committee Policy was approved as presented.
 - o Mandate:
 1. Liaison – between the Council and Employees
 2. Negotiate – negotiate salary with the Employees
 3. Grievance – act as a grievance committee for Employees
 4. Compliance – to comply with all legislation, regulation and polices in place
 - o Authority: (*only the first item is stated here as it is the only one that may be applicable*)
 1. That the Human Resources Committee be given the authority by RM of Manitou Lake #442 Council to confidentially receive complaints, negotiate appropriate measures for staff safety, and make recommendations to Council as a whole.
2. Code of Ethics Bylaw No. 2016-02
 - Part I – Code of Ethics for Members of Council (Attachment #10)
 - Standards and Values
 - a. Honesty – Members of Council shall be truthful and open in their roles as Council members and as members of the communities they serve. (this item is presented here as it is the one referenced in the Complaint)
 - Part II - Contravention of the Code of Ethics
 - Complaint Procedure
 3. As required by 93.1(5)(c) of *The Municipalities Act* the following section details the procedure for handling contraventions of the code of ethics.
 - (a) To report an alleged contravention of the code of ethics, an individual/organization/member of Council may submit the form found in Schedule A, by sending the form directly to the Chief Administrative Officer or Assistant Administrator by mail, e-mail, fax or courier. The complaint will then be presented to Council at the next regular meeting of Council in an *in camera* session.
 - (b) Upon receipt of a complaint, Council shall discuss the complaint and take all necessary steps to ensure the complaint is valid.
 - (c) All discussions surrounding alleged and substantiated contraventions of this policy shall be conducted in an *in camera* session at a meeting of Council.
 - (d) If the claim is found to be substantiated, Council may, by resolution, impose an appropriate penalty detailed in 5(a) to (f) based on the severity of the contravention of the code of ethics.

(Attachment #10 contains the remainder of the Bylaw)

H. FINDINGS

1. In March of 2018, Knibbs/associates submitted their Investigation Reports regarding the Lamb vs Walde and Lamb vs Swanstrom Code of Ethics complaints via the main email of the RM. Claims within the complaints were found to be substantiated.
2. The Acting CAO independently made the decision to bring the Reports to the Human Resources Committee for recommendations to Council as a whole. An HR Committee meeting was convened on April 3, 2018. The discussions were conducted in an *in camera* session at that meeting.

The Acting CAO attended the HR Committee meeting for the purposes of the call for nominations for Chairperson for that meeting and to take notes.

3. History of the what the HR Committee has provided recommendations to Council as a whole for demonstrate that the three separate items identified in "Authority: 1." of the Policy are individual items and therefore only one of the listed items is required in order for the HR Committee to have the authority to address the issue, they are to:
 - Confidentially receive complaints;
 - Negotiate appropriate measures for staff safety; and
 - Make recommendations to Council as a whole.In this situation, the HR Committee made recommendations to Council as a whole.
4. The recommendations of April 6, 2017 (17/082) and March 8, 2018 (18/078) do not deal specifically with employees as the Complainant stated he believed is prescribed by the HR Committee Mandate. 17/082 is a recommendation to terminate the joint Administration Agreement with the RM of Marsden and 18/078 is a recommendation to contract a third party to retrieve information from a councilors' iPad. The Mandate states:
 1. Liaison – between the Council and Employees
 2. Negotiate – negotiate salary with the Employees
 3. Grievance – act as a grievance committee for Employees
 4. Compliance – to comply with all legislation, regulation and policies in place
 - The first 3 items specify who it applies to. However, the 4th one doesn't which leaves it open to interpretation. Is it for Employees, Council, the HR Committee or all three? (See Attachment #9)
5. Neither 17/082 or 18/078 were contested in regards to whether or not the HR Committee should be making recommendations to Council on these items.

I. CONCLUSION

Upon reviewing the Complaint, interviewing the Complainant, the Respondents, the Acting CAO at the time of the occurrence, and the current CAO, as well as all relevant documents, I find:

1. There is no evidence to support the claim against Respondent Ian Lamb (Reeve) as he removed himself from any dealings with this complaint as he was the one who filed the initial Code of Ethics complaint that led to the Investigation Report going to the HR Committee. Therefore, the claim against Ian Lamb is unfounded.
2. The complaint against the remaining Respondents, Joe Koch, Norman Wright and Kevin Bossert, states that it was dishonest for them to pretend they had the right to decide on sanctions against councilors.
 - On the issue of dishonesty, the Code of Ethics defines honesty as being truthful and open in their roles as Council members and as members of the communities they serve. There is no evidence to support that they were dishonest by this definition.
 - The complaint relates the dishonesty to them pretending that they had the right to decide on sanctions against councilors. On this issue, the HR Committee, of which the respondents were acting on behalf of, did not decide on sanctions, they made recommendations to Council as a whole who then decided on the sanctions. Therefore, the claims against the remaining Respondents, Joe Koch, Norman Wright and Kevin Bossert are unfounded.
3. In this situation, the error occurred when the Acting CAO decided that the HR Committee was the appropriate forum for the Code of Ethics Complaint, filed by Walde, on December 17, 2018, to be heard. Even though the HR Committee Policy allows for the HR Committee to “make recommendations to Council as a whole”, the Complaint was filed as a Code of Ethics Complaint. The Code of Ethics Bylaw 2016-02 is clear in Part II – Complaint Procedure which states:
 - (a) to report an alleged contravention of the code of ethics, an individual/organization/member of Council may submit the form found in Schedule A, by sending the form directly to the Chief Administrative Officer or Assistant Administrator by mail, e-mail, fax or courier.” This did occur; however, it goes on to state: “The complaint will then be presented to Council at the next regular meeting of Council in an *in-camera* session.” This did not occur. This language, specifically the word “will”, does not give the option of having the complaint go anywhere except to Council. Had the language included “Council or the HR Committee” it could have gone to either, however, this is not the case.

In order to rectify the error in not following the Complaint Procedure for a Code of Ethics complaint, as identified in the Code of Ethics Bylaw, the issues that mistakenly went to the HR Committee as opposed to Council, should be reviewed and dealt with accordingly. Even though motions 18/133 and 18/135 were voided at the January 10, 2019, Council meeting, that does not mean the issues are resolved. These issues should now be handled in accordance with the Code of Ethics Bylaw Complaint Procedures.

E 19001

Please note that knowingly signing a false affidavit may expose you to prosecution under the Criminal Code of Canada.

Robert H. Walde of Box 88, Neudburg, SK. S0M2R0
(First and Last Name) (Full mailing address)

do solemnly (swear/affirm and declare) that the following contents of this statement are true and correct and hereby request the council of the RM of Manitou Lake No 442 to (look into; conduct an investigation/ inquiry/ follow-up on) whether or not the following member(s) of the RM Council has (have) contravened the Code of Ethics: Member(s) of council name(s)

- Law Lamb (Recue)
- Joe Koch (Div. 6)
- Norman Wright (Div. 3)
- KEVIN Bossert (Div. 4)

I have reasonable and probable grounds to believe that the above member(s) has (have) contravened the Code of Ethics by reason of the following:

1. insert date(s), time and location of conduct;
2. include the sections of this bylaw that have been contravened;
3. provide the particulars and names of all persons involved, and of all witnesses;
4. provide contact information for all people listed;
5. any exhibits can be attached; and
6. if more space is required please attach additional pages as needed.

Dis honesty.
See attached

Witnesses. - All Council - CAO - Assistant Adminl.
- minutes of meetings

[Signature]
(Signature of Complainant)
17 Dec 2018
(Date signed)

For Office Use Only
JANUARY 3, 2019
(Date filed) [Signature]

19-001

17 Dec 2018

Code of Ethics Breach by the Reeve Ian Lamb, Councillors Joe Koch, Norman Wright and Kevin Bossert.

In this situation the Human Resources Committee has contravened the following parts of the Code of Ethics

Dishonest: motion 18/133, it was extremely dishonest of Reeve Ian Lamb, Councillors Joe Koch, Norman Wright and Kevin Bossert to pretend they had the right to decide on sanctions against councillors.

The sanctions are based on the Knibbs/Ass. report that began as the Reeve's complaint about emails that were illegally accessed and morphed into a questionnaire that had nothing to do with the original complaint. Never having discussed this report in council, members would for the most part be unaware of what it stated and what was proven to be based on lies. The recommendation the HR committee put forth is way out side their mandate.

Please read HUMAN RESOURCE COMMITTEE POLICY (attached)

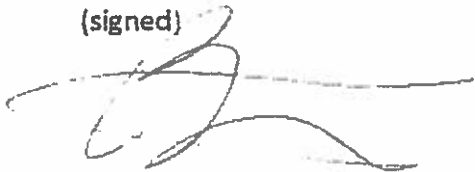
THEIR MANDATE:

- Liaison-between the Council and Employees
- Negotiate-negotiate Salary with the Employees
- Grievance-act as grievance committee for employees
- Compliance- to comply with all legislation, regulation and policies in place.

This was pointed out in my Lawyer, Micheal Hudec's letters to council.

Every motion stemming from a recommendation of the HR committee, not to do with employees as prescribed by their mandate, needs to be declared null and void.

(signed)



Robert H. Walde