
Citation: *Lone Rock (Organized Hamlet) v Wilton (Rural Municipality)*, 2025 SKMB 28

Date: 2025-06-26

DETERMINATION OF AN APPLICATION UNDER
Section 77 of *The Municipalities Act*

Application Number: IMD 2021-0001
Date of Hearing: April 28, 2025 to April 30, 2025
Location of Hearing: Regina, SK

BETWEEN:

Organized Hamlet of Lone Rock

Applicant

- and -

Rural Municipality of Wilton No. 472

Respondent

APPEARED FOR:

The Applicant: Terry Kashuba, Agent
Donna Woods, Organized Hamlet Board Secretary

The Respondent: M. Kim Anderson, K.C., Legal Counsel
Tessa Dyer, Legal Counsel

HEARD BEFORE: Chad Boyko, Panel Chair
Paul McIntyre, Member
John Eberl, Member

INTRODUCTION:

- [1] This is the decision concerning a dispute between the Organized Hamlet of Lone Rock (OH) and the Rural Municipality of Wilton No. 472 (RM). This is a long running dispute between the parties which was commenced in 2021 by the OH. Both the RM and the Organized Hamlet Board (OHB) are governed by [The Municipalities Act, SS 2005, c M-36.1](#) [Act]. The Act provides under subsection 77(1) that:

77(1) If a dispute arises between the council of a rural municipality and the hamlet board of an organized hamlet within the rural municipality, the dispute may be submitted by either party to be resolved pursuant to section 392.

- [2] Subsection 392(2) of the Act states “if mediation fails to resolve the dispute, the Saskatchewan Municipal Board shall hold a hearing and make a decision to settle the dispute”. We interpret this section as giving the Saskatchewan Municipal Board (SMB) wide powers to fashion a decision which will settle the dispute, within the framework and intent of the Act and other, associated legislation.

- [3] Subsection 77(2) of the Act provides the following:

(2) A dispute mentioned in subsection (1) is limited to the following matters:

- (a) capital planning and expenditures for public utilities within the organized hamlet;**
- (b) the percentage of taxes and special license fees allocated to the hamlet account pursuant to clause 69(1)(b);**
- (c) a hamlet levy requested pursuant to section 70;**
- (d) the provision of services pursuant to section 74;**
- (e) a breach of any of the prescribed contents, terms and condition, or other matter contained in the agreement entered into pursuant to section 68.1;**
- (f) the council and the hamlet board not entering into an agreement as required pursuant to section 68.1 or not being able to agree to modifications of the agreement;**
- (g) any other prescribed matter.**

- [4] More will be said about subsection 69(1)(b) and section 70 of the Act later in this decision.

BACKGROUND:

- [5] The origin of this dispute is concerning the decommissioning of the waterworks in the OH and ultimately, the removal of the building and equipment housing the waterworks by the RM. The OHB says those actions were not authorized by an appropriate bylaw or

resolution to establish their legality. The OHB also says that the RM acted inappropriately with respect to Grounds b, c, and d. These grounds are more financial in nature, hence the four witnesses called by the OHB.

- [6] The original dispute submitted to the SMB had some 21 grounds. After intensive case management covering some seven case management hearings, these grounds had been substantially reduced. Pro bono legal counsel on behalf of the OH attended most, if not all, the case management meetings. Part of the RM's concern was the OHB had failed to provide particulars allowing them to understand the case they were called upon to meet. The OHB referenced numerous cases yet failed in most instances to say how these cases were applicable to the factual matrix or how the RM has diverted from those cases. The SMB provided guidance to the OHB on the nature of the particulars required as contained in our interim decision #3. Some, but not all the requested particulars were provided. We add that the OHB was represented by pro bono legal counsel on an intermittent basis throughout the case management process. The OHB was not represented by legal counsel at the hearing.
- [7] The OHB and Terry Kashuba (Kashuba), acting as agent for the OH, are no strangers to the courts. We are aware of at least four applications to the Saskatchewan Court of King's Bench (King's Bench) and two to the Saskatchewan Court of Appeal concerning this matter. We are live to the duties and challenges which may occur with self-represented litigants. It is for this reason we engaged in numerous and extensive case management conferences with the OHB and provided what we saw as explicit and easily followed instructions with respect to the provision of particulars. Self-represented litigants are entitled to some leeway but that leeway cannot diminish the burden of or standard of proof.

ISSUES:

- [8] The parties and the SMB have agreed that the following issues require determination:
- a)i) Did the RM comply with the provisions of the *Act*?
 - a)iii) Was there a requirement that the RM hold a public hearing and if so, was proper notice given?
 - b) Did the RM breach the *Act* by unilaterally changing the tax percentage amounts to be deposited to the OH's account without consultation with the OHB?
 - b)1) Did the taxation amounts and arrears of property purchased or through enforcement by the RM be deposited into the OH's account as required by legislation?

- c) Is the RM required to pay the OHB's expenses pursuant to subsection 69(1) and section 356 of the Act?
- c)1) Were withdrawals made by the RM from the OH's account illegal in not conforming to the legislation and requiring approval of the OHB?
- d) Is the RM required to implement a special levy as instructed by the OHB?

PRODEDURAL ISSUES:

Evidence

- [9] The OHB took the position that as it had raised issues in dispute in the first instance, the RM should be called upon to answer those in the first instance. This position fails to address the onus of proof. Onus is always on the party who asserts a proposition or fact that is not self-evident (see [Cop v Saskatchewan Government Insurance, 2019 SKCA 75, \[2020\] 2 WWR 396](#)). In our interim decision #3, we said the onus is on the OHB to provide evidence in support of its disputed items. Various documents were introduced as exhibits by the OHB at the hearing through witnesses called by them. Other documents were received by the SMB from the OHB and the RM throughout this dispute. While we appreciate the OHB was self-represented, documents not introduced in evidence or not referred to by the OHB through their witnesses have little evidential value in determining this dispute. While the SMB is not bound by the rules of evidence, we are not prepared to accept as evidence unsworn assertions contained in argument. The record as provided by the parties totaled some 3,836 pages. Very little of that record was referred to in evidence.

Disclosure

- [10] The OHB alleged the RM has not complied with their disclosure obligations. The OHB applied to the Privacy Commissioner and received a ruling they could obtain certain documents for a specified fee from the RM. The OHB did not pay the fee, nor did they appeal the Privacy Commissioner's findings. In that decision, the Privacy Commissioner found that the RM's search efforts were reasonable, the RM's fee estimate was reasonable, circumstances to support the waiving of the \$20 application fee did not exist, and found there was no manner of access issue (see [Rural Municipality of Wilton No. 472, 2021 CanLII 56453 \(SK IPC\)](#)). We directed the RM to provide all relevant documents to the OHB required under section 117 of the Act.
- [11] In [Organized Hamlet of Lone Rock v Wilton #472 \(Rural Municipality\), 2022 SKQB 180](#), Justice Meschishnick found at paragraph [49] that the matter of document disclosure had already been addressed in a previous matter between the parties (see [Heney v Rural](#)

[Municipality of Wilton No. 472, 2021 SKQB 19](#) [Heney]). The learned judge addressed the issue of Kashuba's personal attendance to inspect records. They found, at paragraph [51] of the decision, that "Even if there remained some reason for Lone Rock to examine documents in the Respondents office in order to present its case in the Appeal Board action it had an adequate alternative remedy. It could have sent someone else". The RM has provided all documents they say they are required to provide under section 117 of the Act.

- [12] The RM originally objected to disclosing documents concerning an RM controlled company. Upon reflection and further advice received by legal counsel for the RM, it was determined the company was controlled by the RM and therefore disclosure was appropriate. These issues were reflected in our interim decisions #1 and #2.
- [13] We note the OHB said they have no documents as the RM is the repository of all of their documents. We have some difficulty in accepting that proposition. The OHB has interacted with numerous government agencies through the course of this case. During the course of that interaction, we assume letters, texts or emails were exchanged. We would observe such documents would likely be relevant to the disposition of this case, yet, the OHB claimed they have no relevant documents other than minutes of OHB meetings. We do not see that the OHB has been prejudiced by any lack of disclosure. We are confident that the RM has met its disclosure obligations. We also note that the RM office was closed or on part-time hours during the COVID-19 pandemic which we accept made it difficult to attend the RM office.

Nature of the Relationship between an OHB and RM

- [14] The OH is organized under the authority granted in Act and located within the boundaries of, and governed by, the RM. The OHB has no independent source of funding and no authority to adopt bylaws or resolutions of its own. The OHB elects a three person Hamlet Board which then makes representations to the council of the RM. The RM collects all grants and taxes for the entire community, including the OH, adopting a budget, and making allocations through a negotiation with the OH (see *Heney*).
- [15] For our hearing, the OHB called four witnesses. They were Donna Woods (Woods), OHB secretary; Virginia Yakimovich (Yakimovich), a close personal friend of Woods and self-described as an interested party; Amanda Mazzei (Mazzei), an accountant involved in preparing the audited Financial Statements for the RM; and Loralie Raiche (Raiche), who prepared audited statements for the RM prior to Mazzei's involvement. Both auditors appeared responsive to a subpoena issued at the request of the OHB. They had not been involved in the dispute prior to receiving the subpoenas.

- [16] The hearing panel has reviewed the record provided by both parties. We have paid particular attention to the substantial affidavits filed by the RM and the OHB. If we do not mention a particular matter in the decision, that is not indicative that we have ignored or misunderstood the record. The decision that follows is based on the evidence presented to the panel via the hearing process over the course of two and a half days.

Issue a)i): Did the RM comply with the provisions of the Act?

Issue a)iii): Was there a requirement that the RM hold a public hearing and if so, was proper notice given?

- [17] The OHB argued that the RM did not comply with section 5 of the *Act* (which is reproduced below) as they failed to pass a bylaw or resolution in the decommissioning of the Public Utility Board and they failed to provide procedural fairness by providing notice to the OH.

5(1) Unless otherwise provided by any other provision of this or any other Act, a municipality is required to act through its council.

(2) If required to do so by this Act, a council shall exercise a power through the passing of bylaws.

(3) With respect to powers other than those mention in subsection (2), a council may exercise its power by passing bylaws or resolutions.

- [18] Section 29 of the *Act* (which is reproduced below) requires that a bylaw, resolution, or policy provides for the discontinuance of the public utility after giving reasonable notice of its intention to do so. We note that, in our view, the RM has supplied ample evidence that it provided reasonable notice. That evidence is undisputed, so we accept it as fact.

29 In accordance with its bylaws, resolutions or policies, a municipality may, for any lawful reason:

(a) discontinue providing a public utility service after giving reasonable notice of its intention to do so;

(b) remove the system or works of the public utility used to provide the utility service; and

(c) enter any land or building for the purposes set out on clauses (a) and (b).

- [19] The RM at a regular council meeting on May 21, 2020 passed the following resolution: "That the municipality approve the Lone Rock Water & Sewer decommissioning timeline from our lawyer" (Committee Hearing Book #3 (HB3) p. 703). The RM relied on this resolution as a sufficient resolution to allow them to decommission the waterworks. There is no requirement within the *Act* which provides what must be contained in a resolution. The council meeting was open to the public subject to adherence to distancing

requirements (para [47] of Reeve Glen Dow's (Dow) Affidavit, HB3 p. 430). Further, the RM held meetings in 2014 and 2017 concerning the financial status of the OH. On August 21, 2018, there was a public meeting where one of the matters discussed was closure of the water and sewer utilities and their replacement with wells and individual sewer systems. Dow stated at paragraph [56] of their Affidavit that no decision on sewer works has been made by council (at the date of the Affidavit) (HB3 p. 431).

- [20] As a result of the 2018 meeting, an application was launched seeking judicial review at King's Bench. Ultimately, that application was dismissed. Justice Hildebrandt observed in *Heney* it was uncertain whether any council resolution regarding the meeting was made. They did observe at paragraph [13] that the OH residents were made aware of the meeting and attended, and the meeting itself could not be considered objectionable.
- [21] Thereafter, the RM sent a letter to all affected residents of the OH dated May 28, 2020 advising that the water and sewer works would be closed down effective June 30, 2021. We were advised that the sewer works remain operational. The water supply was terminated on or about June 30, 2021.
- [22] It is our view that the resolution of the RM passed at the May 21, 2020 council meeting (Resolution 100/2020) was sufficient to allow the RM to proceed with the decommissioning of the waterworks and was compliant with the provisions of the *Act*. In hindsight, the RM could have provided more information. However, it is our view that the various meetings held, as well as, the letters sent to all OH residents and property owners allowed the affected ratepayers to know what the RM proposed to do, why they proposed to do it and a timeline when same would occur and provided guidance on how to seek assistance from the RM concerning wells.
- [23] We do not see within the *Act* a requirement to hold a special or separate public meeting for a resolution made compliant with section 29 of the *Act* in decommissioning of the waterworks. Our review included sections 127 to 129 of the *Act*, inclusive. Those sections come under the headings, "Matters that must be dealt with by council", "Public notice" and "Public meeting". Nothing in those three sections, where one might expect the requirement for a public meeting on the matter of decommissioning the OH's waterworks system to be specified, would indicate the requirement for such a meeting to be called or held.
- [24] Having made the finding above that our review of the *Act* did not reveal the requirement for a public meeting on the decommissioning of the OH's waterworks system, any requirement for "proper notice" becomes moot. Accordingly Issues a)i) and a)iii) are answered as follows:

- The RM complied with the Act in their resolution decommissioning the waterworks.
- There was no requirement to hold a public meeting.

FINANCIAL ISSUES:

- [25] There are a number of issues brought before us concerning financial disputes between the RM and the OH. Issues b), b1), c), c1), and d) require delving into the financial transactions between the RM and the OH. We heard substantial evidence on these points. We confess that the evidence provided by the OH through Woods, secretary of the OHB; Yakimovich, a friend of Woods and an interested party; Mazzei, RM auditor from 2020 to present; and Raiche, auditor from 2000 to 2019, did little to assist us in understanding the financial position of the OH.
- [26] Woods provided evidence on behalf of the OH. They were and are the secretary of the OHB and a resident of OH.
- [27] Woods first spoke to Resolution 100/2020. They noted there was no bylaw attached to the resolution. It is unclear why this would be important or relevant.
- [28] They next spoke to *Heney* and opined that Justice Hildebrandt would have relied on the Affidavit of Dow filed in that application as truthful. Their opinion was unsupported by any extrinsic evidence. Woods stated that a request to RM council to attend the water treatment plant to get a “second opinion” was denied (Committee Hearing Book #2 (HB2) p. 371). No one suggested that the RM’s view on the water facilities and its current state was incorrect. Woods was then directed to OHB’s argument at page 382 of HB3 which references [*The Environmental Management and Protection Act, 2010 SS 2010, c E-10.22*](#). It is not clear on what basis Woods would be qualified to speak to that issue. Woods provided their interpretation of sections 107 and 119 of the Act. Legal counsel for the RM objected to this line of evidence as it was purely a legal question. We agreed with that objection.
- [29] Woods was asked of their opinion with respect to wages of the “water operator” and whether that was appropriately charged to the OH. They were unaware of the amount of money (if any) in the OHB account. The RM’s position was that the OH was constantly in a deficit position.
- [30] Woods was not qualified or did not demonstrate they were qualified to provide evidence on financial expenditures. Their testimony on financial expenditures largely concentrated on what they saw as “anomalies”. They were not qualified to provide interpretation of

the *Act*, nor requirements within the *Act* for bylaws and resolutions. Woods gave little direct evidence and certainly did not provide any assistance in understanding the financial picture according to the OH. Woods did confirm that the RM offered them compensation to have a well dug to serve them, as they are a resident of the OH. At the time of the hearing, Woods had not accepted such offer.

- [31] They testified that the OHB had submitted an indemnity request to the RM. It was unclear when such a request was made, who made such a request, and from whom such a document was submitted.
- [32] We find Woods provided a number of opinions responsive to leading questions asked by Kashuba. We appreciate Woods' engagement and found their testimony provided context for their experiences as a resident of the OH. We find, however, that their evidence did little, if anything, to advance the OH's case.
- [33] Yakimovich testified on behalf of the OH. They described themselves as a close friend of Woods and astute at reading financial reports. Yakimovich provided evidence-in-chief with respect to their request for documents from the RM. They said they did not receive any materials although it is not clear precisely what documents they were requesting. Yakimovich went online to review council minutes and went to the RM office once with Woods looking for financial records for a controlled corporation (Swift-net Communications Ltd. (Swift-net)). They said that the Office of the Saskatchewan Information and Privacy Commissioner and [The Local Authority Freedom of Information and Protection of Privacy Act, SS 1990-91, c L-27.1](#) were engaged, as was the Government of Saskatchewan, Ministry of Government Relations. Yakimovich commented that very few bylaws were online and very few council minutes were signed or sealed. The OH had requested an audit twice, but their petition was unsuccessful. They testified that none of the relevant materials (RM meeting minutes, bylaws or resolutions validating expenditures) were online. Their testimony was designed to establish that there were anomalies which had not been explained. None of these anomalies were put to the accountant who had performed the audits for the RM from 2020 to present day. Yakimovich was not an accountant, nor were they familiar with Public Sector Accounting Standards.
- [34] Yakimovich made two statements which did not advance the OH's case. They said "Some people play with numbers to get the result they want." There was no evidence to support such a sweeping statement. They also said, "Expenditures may have been made deliberately to place the OH balance in deficit." Again, this statement is unsupported by the evidence. Both of these statements seem designed to cast the RM in a negative light with no evidence to substantiate that position.

- [35] The OHB next called Mazzei who appeared via video. Mazzei has been the auditor for the RM since 2020 to present. They are a partner in WLS LLP, a large accounting firm in Lloydminster, Alberta. The OHB did not provide any documents to Mazzei prior to their testimony.
- [36] The first document reviewed with Mazzei was a schedule concerning council remuneration (Schedule 10, HB2 p. 667). Mazzei testified that management provided the information found in Schedule 10. Representative samples of documents were reviewed using standard accounting practices. Schedule 10 was an audited statement. On a question not related to Schedule 10, Mazzei was asked if they had audited the controlled corporations of the RM. None were audited by them. They indicated that not all controlled corporations were audited. In Mazzei's opinion, tax levy grants, and grants in lieu were handled appropriately. They were asked a question concerning the standard abatement rates. They could not respond to what a standard abatement rate was.
- [37] Mazzei further testified that the OH does not show up as a separate entity within the RM. Canadian Audit Standards were employed during their engagement on behalf of the RM. They felt that the control environment within the RM was strong and saw no significant issues.
- [38] The RM had acquired significant property within the municipality, including property in the OH, prior to Mazzei coming on as auditor. Accounting procedures for property acquired through tax enforcement procedures appeared appropriate. Withdrawals made from the OH account were supported by journal entries which had been reviewed and were reconciled to and with the accounts of the RM generally, including those relative to revenues and expenses on behalf of the OH. Lastly, the variance analysis applied used 10% or 25,000 as a guide for further review.
- [39] Mazzei was asked by the panel whether their audit would check timelines or processes in the *Act*. They responded by saying that the audit does not check *Act* compliance as that is outside the scope of a financial audit.
- [40] It is our view that Mazzei provided valuable information to the panel and participants. They clearly answered questions as they were put to them and advised when they were unable to answer the questions asked to them. They testified to the standard auditing practices used and they found the control environment within the RM to be strong.
- [41] The last accounting witness called by the OHB was Raiche, Principal of HRO Chartered Professional Accountants P.C. Ltd. of North Battleford. Raiche testified via video. They

were the auditor for the RM from 2000 to 2019. They were referred to Schedule 10 (HB2 p. 494). This document listed council remuneration up to December 31, 2015. That schedule was unaudited which Raiche referred to as standard practice. Raiche never audited the controlled corporations of the RM. They were clear that they were auditing the RM and not the OH. Materiality was based on the RM spend amount. This was an RM financial audit using the Public Sector Accounting Standards Handbook.

- [42] Raiche was asked whether their audit would include legislative compliance. They stated it would not as this was a financial audit. They were asked whether they compared the OH's budget to the RM's budget. They were quite clear and emphatic that they were not auditing the OH. The audit was based on the RM's materials provided by the RM's Administrator. Raiche referred to the Independent Auditors Report (HB3 pp. 1026 to 1027) which accurately states the approach taken in the audit.
- [43] Raiche was referred to page 616 of HB2 which showed a residential condominium assessment of \$87,283,950. Raiche was unable to answer any questions without going back to their original files. They did note that taxable assessment information would have been obtained from the province. Raiche was then referred to page 585 of HB2 which showed different numbers and a total taxable assessment of \$656,722,880. They could not explain the difference.
- [44] They advised that the tax title property account was to their knowledge handled correctly. Raiche had not been involved in any adjustments to the OH's account.
- [45] Both accountants testified in an evenhanded and direct fashion answering questions as they could. Raiche was at somewhat of a disadvantage as they had not examined these documents since 2019. It is clear the audits performed were done using standard accounting practices. It is also clear that neither accountant was tasked directly or specifically with an audit of the OH's account. Neither accountant was tasked with determining *Act* compliance.
- [46] The next witness to testify was Dow. Dow, with the agreement of the parties, provided two lengthy affidavits for this hearing. The first Affidavit submitted by Dow, sworn January 10, 2019 (Dow Affidavit #1), is found at pages 1375 to 1525 of Committee Hearing Book #1 (HB1). The second affidavit was filed and forms part of our record (Dow Affidavit #2). That Affidavit is found at pages 424 to 789 of HB3 and was sworn February 13, 2025. Lastly, a short Supplemental Affidavit was provided by Dow (Dow Affidavit #3). That Affidavit was sworn on April 24, 2025 (HB3 pp. 1097 to 1100). Dow was cross-examined by Kashuba with respect to the Affidavits. This method was agreed by the parties and the SMB.

- [47] Dow's Affidavit #1, sworn January 10, 2019, was provided by the RM in response to the judicial review application launched by the OHB in *Heney*. It encompasses some 55 paragraphs which outline in broad terms the issues facing the RM and the OH concerning provision of water and several issues unrelated to the grounds before us in this hearing.
- [48] The first question put to Dow by Kashuba was whether there was anything in their recent Affidavits they would like to change. Dow responded "no". Thereafter, they were referred to paragraph [9] of Dow Affidavit #3 which refers to paragraph [17] of Dow Affidavit #2 concerning the OH's accumulated deficit. Dow indicated that tax title property within the OH was held in a tax title property reserve and is not treated as an OH deficit. This approach was adopted based on the advice of accountants.
- [49] Kashuba then referenced paragraph [17] of Dow's Affidavit #3. Dow advised that no municipal policing costs were charged back to the OH. Dow was firm in their statement that the OH does not contribute to other RM expenses.
- [50] Kashuba then moved on to deal with the resolution which the RM relied on for its decommissioning of the waterworks. The resolution can be found at page 421 of HB2. We have found that resolution sufficient to support the decommissioning of the waterworks. Dow further testified that the timeline referenced in the resolution was made public shortly thereafter. Kashuba asked if notes were made at the meeting. Dow did not recall any notes being made, nor did they recall the name of legal counsel who provided the timeline.
- [51] Kashuba started a line of questioning which attempted to show that Dow Affidavit #1, filed in the judicial review application was relevant, in that Dow made a material change to the Affidavit and didn't advise King's Bench. Justice Hildebrandt issued their decision in *Heney* on January 11, 2021. When questioned on the relevance of this line of questioning, Kashuba said it went to the credibility of Dow. For our part it is unclear how a judicial review application which was not based on the decommissioning of waterworks is relevant to this application. If in fact there was a misstatement made by Dow in an affidavit filed pursuant to judicial review application, which is far from clear, we do not see how this question reflects on the credibility of Dow in the application before us.
- [52] Considerable time was spent on who the operator was for the water utility, what that person was paid and whether they were a "certified" operator. It was never established in evidence precisely what a certified operator means or what the requirements are for such a position. In the overall matters under dispute and in terms of resolution of those matters, this seems to us to be of little import.

- [53] The next area of discussion was whether there had been a bylaw passed when the waterworks were constructed (sometime in 1980). It is not apparent that such a bylaw was created. However, as we read section 29 of the *Act*, there is no requirement that a prior bylaw be rescinded in decommissioning the waterworks.
- [54] Kashuba asked why the RM didn't contact the Minister of the Environment. Dow responded by saying the Ministry of Government Relations knew how the RM was proceeding. Next, Kashuba put to Dow that the RM was required by legislation to obtain some sort of approval. Legal counsel for the RM objected to the question as argument concerning the legislation and its requirements. We agreed with that objection.
- [55] The next area of discussion was concerned the amount of tax which was credited to the OH account under subsection 69(1) of the *Act*. Subsection 69(1) of the *Act* states as follows:
- 69(1) The council of the rural municipality in which an organized hamlet is located shall allocate to a hamlet special account:**
- (a) All grants received on behalf of the hamlet; and
- (b) At least 40% but not more than 75%, as may be agreed by council of the rural municipality and the hamlet Board, of the taxes collected for municipal purposes and the municipal portion of any special licence fees established pursuant to section 306 from within the organized hamlet.
- [56] Dow testified that before 2017, 75% of the taxes collected were credited to the OH account. 100% was credited in 2017 as the assessments for the purposes of taxation supplied by the Saskatchewan Assessment Management Agency were extremely high.
- [57] Dow said the OH account was in a continuous deficit position for a substantial period of time. This is the crux of the issue between the parties. The OHB says they are not in deficit. They go further and say the RM has been charging costs and expenses to the OH which they are not responsible for, nor is the RM permitted under the legislation to charge such cost and expenses to the OH without agreement between the parties to so authorize.
- [58] Kashuba asked if Dow had brought the tax rolls with him to the hearing. They had not, nor was there any evidence that such a request was made. Dow was quizzed on the number of properties owned by the RM in the OH. Kashuba asked if some 62 properties were owned by the RM within the OH, however Dow could not confirm that number.
- [59] Kashuba asked about Dow's comment in paragraph [56] of Dow's Affidavit #2 on page 430 of HB3, where they stated council was deliberating about options with regards to the

sewer system. They were asked what options were available. Dow advised council is determining costs associated with extending the life of the sewage system. They commented that this would be a very expensive proposition.

- [60] The next area of inquiry was the budget process. Prior to 2018, there was a yearly meeting where the budget would be presented to the RM. After 2018, the budget process came to a halt as the OH budget was in a constant deficit, making budgetary discussions impossible. The budgets could not be approved. Dow said they couldn't reconcile proposed budgets to the RM's account. Further, in our view, effective communication broke down between RM administration and OH representation due to constant issues of conflict.
- [61] Dow's testimony was difficult to follow, but in our view, the questions put to them did not seem to follow any particular path. Dow had unexpected lapses in recollection concerning what occurred over the course of time. This causes us concern as we anticipated Dow would be able to fully address the issues which were before the panel. Dow's testimony gave us a better understanding of the timeline involved, the reasons for the decommissioning of the waterworks and the program the RM put in place to assist the ratepayers affected in the OH. We found Dow to be a credible truthful witness but had concerns over their reliability.
- [62] The last witness called was Jill Parton (Parton). Parton had not provided an affidavit. Parton started as the Assistant Administrator to the RM in 2007. A series of questions were put to Parton by Kashuba concerning whether a bylaw can be amended by resolution. Legal counsel for the RM objected as this was a legal question. We sustained that objection.
- [63] Parton was referred to page 928 of HB2 and questioned on whether a Public Utility Board was created. That document was entitled "Year in Review". It indicated a meeting was held on June 13, 2017. The document said a Public Utility Board was established by three people raising their hands and volunteering at a meeting. The three elected OHB members were replaced by the three volunteers. The OHB members were later reinstated. It is clear from the record no Public Utility Board was ever established.
- [64] Parton said no budget was put forward by the OHB in 2019. The last budget put forward was in 2018 which they said was approved. Further budgets had been submitted by the OHB but had not been approved.
- [65] Parton is a named director of Swift-net, a controlled corporation of the RM used as a vehicle to purchase properties within the OH. Kashuba then referred Schedule 3-2 found

on page 235 of HB3 and asked why Swift-net and OH expenses were lumped together. The document was prepared by Parton and the auditor. Parton was quizzed about a blank Corporation Loss Continuity and Application contained on page 1221 of HB1. Their evidence was the auditor would fill out that form with information supplied by the finance manager.

- [66] Parton was asked if they knew if Kashuba had been to the RM office to obtain documents. As far as Parton was aware, Kashuba had only attended the office to serve them with various legal documents.
- [67] Kashuba returned to their line of questioning with respect to the increased cost to operate the water utility. All of this had been explained. The RM put in significant funds to bring the water utility up to requirements. Parton testified the RM expended close to \$100,000 to ensure the water utility was proper. They hired a certified operator because that was required. The previous operator had been an OH resident which helped lower the costs.
- [68] Parton was quizzed about a request for indemnity by the OH to the RM. Parton stated the OH made a formal request at a council meeting. There is no other evidence which describes to what these payments specifically pertain to. The OHB had been directed to provide particulars of their indemnity request. The request for indemnity was denied as there were no funds in the OH account. Parton was also quizzed with respect to RM's acquisition of property within the OH. This is not an issue before us. They provided information on that point as best they were able. This concluded the cross-examination of Parton.
- [69] We found Parton to be both a credible and reliable witness. They answered questions in a direct manner and provided information which assisted us. This brought the testimony of witnesses to a conclusion.
- [70] During oral submissions, both parties presented a brief summary of their respective positions. Kashuba stated that the RM did not follow the required process. Kashuba said had the resolution decommissioning the waterworks been provided when requested, the matter could have been resolved years ago. This admission lends support to the proposition that the resolution is in fact effective in decommissioning the waterworks.
- [71] There has been a total breakdown of communication between the OHB and the RM. There has been an ongoing dispute between the two parties since 2018. Many actions have been held in abeyance pending our determination. Simply put, the OH and RM are

at loggerheads. An example is the OHB tried to engage the United Nations for a referral of the RM to the International Criminal Court.

- [72] Legal counsel for the RM stated that the end of the service could be done by bylaw, resolution, or policy as per section 29 of the *Act*. Their view was that the RM made a clear council decision with respect to the water utility. Over a year's notice was given to the residents. Both the Saskatchewan Health Authority and Water Security Agency were engaged on this decommissioning and both said the RM was compliant.
- [73] Despite all the testimony we heard about the financial matters, we are left with the evidence that no auditor reviewed the OH transactions nor was any audit done to determine whether the RM had complied with the legislative requirements. To address the financial concerns raised by the OHB in this application, the RM agreed to fund a forensic audit to review the OH/RM transactions. They said most expenditures have been explained. The OHB is fully supportive of the RM's proposal concerning financial matters. Kashuba confirmed during the hearing that the forensic audit "would solve most of our problems".
- [74] We direct the RM to engage the services of a forensic auditor to review the OH/RM transactions and to provide a report to both parties and the SMB. The audit result shall be binding on the parties.
- [75] We believe that order will answer the questions contained in Issues b), b)1), and c)1). We have found that the RM complied with the *Act* with respect to decommissioning the water utility and no public meeting was required. This determination answers Issues a)i) and a)iii). This leaves us to provide our views on Issues c) and d).

Issue c): Is the RM required to pay the OHB's expenses pursuant to subsection 69(1) and section 356 of the *Act*?

Issue d): Is the RM required to implement a special levy as instructed by the OHB?

- [76] It is our opinion that section 356 of the *Act* does not provide the basis to require the RM to indemnify the OHB members as claimed. Section 356 of the *Act* speaks to a situation where a "municipality is vicariously liable for loss or injury arising from any act or omission of a municipal officer, a volunteer worker or an agent of the municipality acting in the course of his or her duties if the officer, volunteer worker or agent would be otherwise be personally liable". This section contemplates actions against the municipal officer, worker, or agent. Here, the action was commenced by the OHB against the RM. Section 356 of the *Act* does not provide for an indemnification in those circumstances for persons pursuing an action against the RM (see [Maharaj v Rosetown \(Town\), 2025 SKCA 19](#)). There

is no evidence that the OHB or its agent falls within any of the enumerated classes of workers named in section 356 of the *Act*. Secondly, there is no evidence which would allow us to draw the conclusion they were acting in any of the renumerated roles for the RM. Lastly, there is no evidence as to how the claimed indemnification figures were derived and what the sums claimed represent. Based on the scarcity of evidence and the above noted case, we are confident that indemnification in these circumstances does not fit within the legislation.

[77] In our interim decision #4, we stated (HB3 p. 356):

The SMB provided guidance with respect to the special levy. Specifically, the SMB asked what section of the *Act* does the OHB rely on and when and by what means did the OHB request a special levy. The *Act* provides for a Hamlet levy under section 70. As a matter of evidence, the Hamlet will need to establish when they requested a levy and by what means.

[78] Yakimovich's Affidavit, found at page 271 of HB3, states:

I have reviewed the Lone Rock Hamlet Board minutes & budgets which indicate as per Municipalities Act section 70 a special levy on or before March 1st of every year beginning in 2019 to present (2024 year) has been submitted to RM .

[79] The special levy referred to states the levy in the following fashion, "Special levy in the amount of \$3000.00 per RM of Wilton lot to be assessed until such time as the lots have been redeveloped to previous tax revenue" (HB1 p. 61). The levy ignores subsection 292(1)(q) of the *Act* which states:

292(1) The following are exempt from taxation in all municipalities:

...

(q) all property of the municipality;

[80] Subsection 154.1(1) of the *Act*, found in Division 2 under General Financial Matters, states:

154.1 (1) In this section:

(a) "levy" means a levy of taxes or requisitions that:

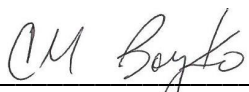
(i) is authorized pursuant to this Act or another Act; and

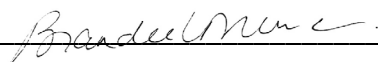
(ii) a municipality is authorized to collect pursuant to this or any other Act;

- [81] Based on this analysis, we do not see how the OHB can request a special levy on property owned by the municipality which is exempt from taxation. Nor do we see how the OHB can request a special levy based on the ownership of the property. As we see it, the levy requested against property, which is exempt from taxation, must fail. The RM acted properly when it refused the request for a special levy from property exempt from taxation.

CONCLUSION:

- [82] The RM complied with the *Act* in their resolution to decommission the waterworks.
- [83] There was no requirement to hold a public meeting. No notice was required to be given.
- [84] Issues b), b)1), and c)1) will be addressed by the forensic audit which will be funded by the RM.
- [85] The RM is not required to pay the OHB expenses (indemnification) claimed pursuant to subsection 69(1) and section 356 of the *Act*.
- [86] The RM acted properly in refusing a special levy on property exempt from taxation.

Per: 
Chad Boyko, Panel Chair

Per: 
Brandee Murdoch, Director