

# MUNICIPAL INSPECTION REPORT: TOWN OF LAMONT, ALBERTA

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Prepared For:  
Alberta Municipal Affairs

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## EXECUTIVE SUMMARY

This report documents a municipal inspection conducted on behalf of Alberta Municipal Affairs in the Town of Lamont between December 2012 and February 2013.

The inspection included two series of interviews with all members of Lamont Town Council, interviews with municipal staff, and interviews with a number of town residents. It also included observation of Council meetings, various administrative processes, and the review of municipal bylaws, policies and procedures.

Lamont is a small town just to the northeast of the City of Edmonton. It has a Mayor and a Town Council of 6 Councillors (5 at the moment due to one vacancy). The Council has a system of many committees. A primary recommendation is that a Council and Committees Meeting Procedures Bylaw be established to formally define the committees and to provide guidance to the operation and management of all meetings of Council and its committees.

There is a small administration of a Chief Administrative Officer and a staff of about 11 persons serving a community of about 1,800 people in town and an undetermined number of people from the surrounding county. Services include public works, arena and community hall functions, and a volunteer fire department, among others.

In addition to interviews with staff, this inspection included meetings with a number of individuals from the community with specific concerns about, or expressions of support for, the work of their town leaders. Some of those concerns resulted in some of the proposed recommendations.

The Town went through a very difficult year between the election of October 2010 and the end of 2011. As a result of those difficulties an inspection was requested. In the time between the request and the time of this report (about 15 months), the town has already moved beyond the issues that spawned the request, but is looking forward to the recommendations arising from the inspection to improve its business practices and thus improve its services to citizens. The inspection found that the town is substantially in compliance with the provisions of the Municipal Government Act.

A series of 9 primary recommendations, with another 10 recommendations “nested” inside one primary one, are intended to provide improvements in the transparency of the town’s government to its citizens, as well as to improve some internal processes, and especially the skills and expertise of many of the town’s staff and the town’s councillors.

## INTRODUCTION

### Legislative Background for Inspections

The legislative authority for inspections of municipalities is provided in section 571 of the *Municipal Government Act, RSA 2000, Chapter M-26* (hereafter referred to as the “MGA”). The section is quoted in its entirety in Attachment 1 to this report.

The Minister of Municipal Affairs is empowered to require an inspection of the “management, administration or operation of any municipality” at his initiative or on the request of the council of the municipality.

The person appointed as an inspector is empowered to speak to any person the inspector considers necessary to the inspection and the chief administrative officer is required to provide any books or records to the inspector for examination on the inspector’s request.

At their meeting of November 17, 2011, the Council of the Town of Lamont requested that the Minister conduct an inspection by passing (unanimously) the following motion:  
In accordance with the Municipal Government Act Section 571 (1) (b) Council requests an inspection of the Town of Lamont be performed with regards to any matters connected with the management, administration and operations immediately.

Upon receipt of the request, the Minister of Municipal Affairs responded in a letter to the Mayor, dated January 3, 2012, with the following:

Based upon your request, I have decided, under the authority of section 571 of the Municipal Government Act, to order an inspection into the management and operation of the Town of Lamont.

More than eleven months passed before an inspector was appointed to conduct the inspection. A primary issue in that delay was the provincial election of April 23, 2012, which impacted internal government operations for several weeks prior to the election and for several weeks afterwards. There are also mandated time frames for selection processes for contractors to be appointed as inspectors through the Request for Proposals (RFP) process. In addition to the normal time frames, in early to mid-2012 the processes and procedures of inspections were being reviewed based on challenges experienced during other recent inspections. This review resulted in a more detailed set of service requirements being identified for the Lamont inspection RFP and other subsequent inspections.

## Description of Inspection Process

On November 15, 2012, the Minister appointed Stephen Thompson as the inspector for the Town of Lamont. His mandate, according to the contract related to the work, has been to:

- Review and evaluate bylaws for adequacy, relevancy, consistency, and conformity with legislation;
- Review and evaluate key policies for adequacy, relevancy, consistency, and conformity with legislation;
- Review and evaluate council committee structure;
- Review and evaluate the organizational structure of the administration;
- Review and evaluate process and procedures used to prepare for council meetings, including preparation of agendas and information provided to council;
- Attend and evaluate the conduct of a council meeting, including discussion and voting procedure, decorum, provision for public attendance, and minute-taking;
- Review and evaluate process for preparation and approval of minutes;
- Review and evaluate recent minutes of council meetings;
- Interview councillors;
- Evaluate councillors' understanding of their role and responsibilities;
- Interview CAO;
- Evaluate CAO's understanding of role and responsibilities;
- Interview staff;

Each of these tasks has been undertaken between approximately December 1, 2012, and February 8, 2013. Specifically, the following tasks have been completed:

- Each member of Council was interviewed once in the first week of the inspection process, and again in the last week of the process.
- The Acting CAO was also interviewed specifically in the first week and last week of the inspection process and was also consulted on a regular basis throughout the process, including phone calls of clarification even after the end date identified above.
- All of the staff who report to the CAO were interviewed about their specific responsibilities and their relationship to the CAO, to Town Council, and to the citizens of Lamont.
- A number of citizens of Lamont were also interviewed. Most of these citizens were "self-identified" in that they sought out the inspector to request a meeting and an opportunity to discuss their concerns about the operation of the town. A few were contacted by the inspector and invited to share their perspectives.
- Three regular Council meetings, including their respective *in-camera* portions, were attended and observed.
- One special Council meeting, concerning Council's consideration of the 2013 operating and capital budgets, was also attended and observed.

- Minutes of Council meetings from the previous year were reviewed and selected minutes from meetings in previous years were reviewed.
- Lists of all bylaws of the Town were reviewed and most of the recently passed and currently valid bylaws of the Town were fully reviewed.
- Current administrative policies of the Town were reviewed.
- The Town's regular financial reporting processes were reviewed and the annual budget preparation and approval process (since it was conveniently underway during the time of the inspection) was also followed and observed.

The balance of this report will report on the findings of the process described above. The format of the report is structured around the reporting requirements identified in the inspection contract as follows:

- Description of the legislative basis for inspections and the specific authorization for the inspection;
- Description of the municipality, including the types and means of services delivered;
- Description and analysis of the council and committee structure;
- Description and analysis of the administrative organization structure;
- Results of the inspection process;
- Identification of instances of inappropriate actions, processes, or procedures;
- Identification of circumstances that indicate non-compliance with legislation, bylaws, or policies;
- Identification of instances of misconduct of councillors or administration;
- Identification of improvident, improper, or irregular matters; and
- Numbered recommendations to the Minister to address results of the inspection process.

With respect to that last bulleted item, none of the recommendations presented in this report carry the weight of a "Ministerial Order" to the municipality. As a result of the inspection processes described above, it is the opinion of the inspector that the Town of Lamont is being operated in substantial compliance with the requirements of the Municipal Government Act. A few issues are identified in the balance of this report, but none of a nature significant enough to require the "weight" of an order from the Minister to the Town to implement compliance.

### **The Town of Lamont: "City Living – Country Style"**

Lamont was formed as a village in 1910 and as a town in 1968. Its current population is 1,753 (2011 Federal Census). It has an area of 910 hectares and there are 871 dwelling units (Alberta Municipal Affairs "Location and History Profile," accessed on March 1, 2013).

Lamont straddles Highway 15, with most of its businesses and residences located to the north of the highway. Secondary highway 831 also runs through the town and intersects with Highway 15. Highway 29 skirts the northern boundary of the town.

The town has a thriving main street (50<sup>th</sup> Avenue) with many businesses lining both sides, plus other businesses within a block or two of 50<sup>th</sup> Avenue at various points along its length. There are developing commercial areas along Highway 15 and along 47 Avenue, which runs parallel to Highway 15.

Lamont has done well in development of various kinds of infrastructure over the years. There is a public elementary school, and a high school. The high school hosts a public library serving the whole community.

The Lamont Health Care Centre provides a wide range of services including an emergency department, acute care, surgical suites and beds, as well as facilities for long term care, respite care, and palliative care.

Recreational facilities include an arena with attached meeting rooms and social and banquet halls, a curling rink, baseball complex, and fair grounds.

There are at least three churches serving the community: Ukrainian Catholic Church, Alliance Church, and United Church of Canada.

A variety of community volunteer organizations work to enhance community life including the Lamont and Area Agricultural Society, Lamont Fish and Game, the Lamont Curling Club, the Lamont Lions Club, Lamont Minor Hockey, Lamont Figure Skating, a seniors club and a seniors drop-in centre, and at least three dance clubs. In addition, there is a current initiative underway to form a Chamber of Commerce among the town's businesses.

## ANALYSIS

### Council and Committee Structure

The Town of Lamont is governed by a council comprised of a Mayor and six Councillors, all elected at large by eligible electors in the town.

In the October 2010 election, there was a turnout of 619 of 1391 eligible voters (45.5%).

On September 28, 2011, Mayor Denis Durand resigned his position. A by-election was scheduled for Monday, December 5. At Nomination Day on Monday, November 7, only Councillor Bill Skinner was nominated, and was thus elected by acclamation. He was sworn in as Mayor at Council's next scheduled meeting on Tuesday, November 8.

This created another vacancy on Council. A by-election was scheduled for January 16, 2012. Two persons were nominated and Steven Sharun was elected. He was sworn in at the next regular meeting of Council on January 24, 2012.

On June 26, 2012, Councillor Derek Strong resigned his seat as he was leaving the community for personal reasons. As this vacancy occurred within 18 months of the next scheduled general election in October 2013, no by-election was scheduled. Council is continuing to meet and conduct business with the Mayor and 5 Councillors.

Therefore, the current Council of the Town of Lamont consists of:

- Mayor Bill Skinner
- Councillor Mike Brown
- Councillor Wayne Field
- Councillor Gail Hrehorets
- Councillor Sylvia McDonald
- Councillor Steven Sharun

At its annual Organizational Meeting, Town Council identifies a schedule for the appointment of the Deputy Mayor and the appointment of Councillors to an array of Committees of Council, Commissions and Appeal Boards, and External Committees, Boards and Commissions.

The Committees of Council include:

- Corporate Services Committee (comprised of three members of Council, the Financial Officer, and the CAO)
- Public Services Committee (comprised of three members of Council and the CAO)
- Protection of Persons and Property Committee (comprised of three members of Council, the Public Works Foreman, the Bylaw Officer, and the CAO).
- Parks and Recreation Committee (comprised of two members of Council, the Public Works Foreman, and three members-at-large)



All committees make recommendations to Council in their identified areas of responsibility. Meetings are not scheduled on a regular basis, but are indicated as held “as required.”

The Commissions and Appeal Boards include:

- Municipal Planning Commission (MPC) (comprised of three members of Council with the CAO identified as the Secretary)
- Subdivision and Development Appeal Board (SDAB) (comprised of two members of Council and three members-at-large, with the Town’s Administrative Coordinator identified as Secretary)

These boards are briefly described with their statutory responsibilities.

It is noted that an Assessment Review Board (ARB) is not included with these statutory bodies.

The External Committees, Boards, and Commissions are a longer list of organizations to which Council is typically appointing one or two representatives, usually Council members, sometimes the CAO. These are organizations that serve the community from the town level, the county level, and the regional level. All of them have their own operating procedures and meeting schedules outside of Council’s control. The need for the appointment of Council representatives to these organizations will originate in the documents of those organizations, or perhaps as a result of Council’s involvement in the organization’s foundation, or because other legislation or regulation requires municipal participation.

One unique board here is the Lamont Catering Club to which are appointed two members of Council, the CAO, and three members-at-large. The Catering Club is responsible for coordinating all meals and food-service at the community hall attached to the Arena. The Catering Club is an example of an organization essentially set up by Council many years ago to serve the users of the municipal facility to ensure consistent levels of service and to ensure consistent care and maintenance of the kitchen and food-service facilities in the community hall.

Consideration needs to be given to including at least the first two types of committees described above in a “Council and Committees Meeting Procedures Bylaw” (exact name to be determined by Council). The bylaw should formally create these committees, their mandates, and their structure. The bylaw should also impose on the members of the committee all or some of the meeting discipline imposed on Council. In particular this must include giving public notice of the meetings, ensuring the meetings are accessible to the public, and recording meeting proceedings in formally approved minutes. Committees are usually intended to be less formal environments for discussion of issues prior to presenting those issues to Council. There are many options for ensuring this flexibility and relative informality. These can all be accomplished and still ensure the meetings are properly publicized, accessible, and recorded.

Further, the membership of the four “Committees of Council” should not include Town staff as voting members. This confuses the role of elected members as opposed to employees. It should be understood that the CAO and other relevant staff are available as key resources and advisors to these committees. However, insofar as these committees, even those with “members-at-large” appointed from the community, might occasionally take votes to support (or not support) recommendations to Town Council, employees of the Town should not be participating in such votes. The potential for issues of conflict of interest to arise is simply too great.

As part of the inspection process, two series of interviews were conducted with the Mayor and all members of Council. The first series of interviews occurred in the first week of December at the beginning of the inspection process. This gave the inspector initial insight into the background and experience of all Councillors, and provided a base or foundation of information for things to look for and consider in the weeks ahead. Then a second series of interviews was conducted in early February as the inspection process wound down. This enabled the inspector to clarify various things observed in the inspection process and to ask each Councillor more specific questions about the town, its operations, the role of Council, and the perceptions and perspectives of the Councillor on various issues observed during the inspection.

### **Administration Management and Staff Structure**

The Town administration consists of staff who work in the Town Office, in the Public Works Building (and essentially all over town), and in the arena and community hall complex.

In the Town Office Building, the Chief Administrative Officer works and supervises up to four other persons. These include a Deputy Chief Administrative Officer, a Financial Officer, a full-time Administrative Coordinator, and a part-time clerk.

Currently the Deputy Chief Administrative Officer is functioning as the Acting Chief Administrative Officer and has been in that position since Town Council dismissed the previous CAO in December of 2011. The Acting CAO is responsible for managing all of the Town’s staff and work and budget and specifically supervising the Financial Officer and the two administrative support staff who work in the Town Office.

The Financial Officer, as the title suggests, is responsible for the accounting of all Town revenues and expenses. The Financial Officer prepares monthly budget reports for the information of Council and, together with the CAO, prepares the annual budget. The establishment of the position of Financial Officer was an initiative in the last year or so of the mandate of the previous CAO. It has been a very beneficial addition to the Town administration as current financial status reports are now literally a touch of a computer button away. This is appreciated by Council and by the Town’s auditors who report much satisfaction with the books they are reviewing over the last couple of years.

The current Financial Officer, due to family reasons, had to relocate back to Ontario. However, he is still performing his services on a part-time and remote basis. The success of this arrangement suggests that, having established the systems and processes for reporting, it may be quite reasonable to structure the job in a part-time manner on an on-going basis, rather than hiring a full-time bookkeeper or accountant again. There will, of course, be benefits to having the provider of those services somewhat closer to Lamont than in Ontario, but the success of that relationship suggests that it may not be necessary to have someone located permanently and full time in an office in the Town Offices.

The two administrative support persons (one full time, one part time) to a degree fulfill similar functions. However, the full time Administrative Coordinator is specifically responsible for supporting Town Council meetings through agenda preparation, recording duties at Council meetings, and preparation of minutes after meetings. Beyond that, both positions deal with a variety of tasks including managing tax and utility payments from residents, managing bookings for the community hall and arena, processing invoices and generating cheques, and receiving and responding to complaints from citizens about any municipal services.

The Public Works Foreman supervises a full-time permanent staff complement of three persons, plus variable numbers of seasonal staff (up to three persons for varying lengths of time) in the summer to assist with grass cutting and other parks maintenance. Primary responsibilities revolve around road maintenance in the summer months, snow clearing in the winter, and water and utility maintenance year-round. Staff must maintain qualifications on a regular basis for water treatment, water distribution, grader operation, first aid, CPR, dangerous goods handling, and dangerous trenching methods. Equipment and vehicles must also be maintained according to monthly and annual cycles, and sometimes based on mileage.

The Arena Supervisor manages the operation of the arena, the associated meeting room, and the community hall year-round, plus the curling rink in the summer (when the Curling Club is not responsible for its management). He supervises one other full time staff and one part time staff. He feels he could use one more part-time staff person for better relief coverage on weekends. The arena is well used by Lamont Minor Hockey with significant bookings by local figure skaters and other hockey users (adults and youth) from other communities.

The Curling Club has an agreement with the Town whereby it takes over the curling rink from approximately October through March. It is responsible for all operations – expenses and revenues – for that entire period. Then the Town takes it over for the summer months and books the facility for smaller functions than might not need the full community hall – weddings, family reunions, etc.

The Lamont Volunteer Fire Department operates under the leadership of a Fire Chief and two Deputy Chiefs (who receive honorariums for their management work), plus an Assistant Deputy Chief, two Captains and 22 other trained volunteers who provide fire

protection and emergency response services to the Town and surrounding portions of Lamont County. All of them receive an hourly rate for responses to fire and emergency calls in town and in the surrounding areas of Lamont County. They also receive a flat rate payment for attending training sessions and meetings one evening per week.

The Town has an agreement with Lamont County for provision of firefighting services in the area of the county immediately around the Town of Lamont. This extends to even having a “county fire truck” (bought by the county) in the fire hall along with the “town fire truck.” Each is used for calls in the respective areas. Both can be used if needed at any single call.

In addition to funding from the Town for the “essentials” of firefighting, the Lamont Volunteer Fire Department also does fund raising in the community to purchase extra equipment. Recent examples include the purchase of “jaws of life” equipment and air bottles for firefighters to use in smoke-filled environments.

While there are no problems to report with the Fire Department, the reporting relationship to the Town administration may require clarification if for no other reason than to be sure exactly who the Fire Chief reports to. Unquestionably that is ultimately Town Council, but as with all municipal operations, that reporting needs to be through the Chief Administrative Officer. The Fire Department, even with its effective volunteer operations model, needs to appear on the Town’s organization chart so that it is properly recognized as a valued municipal service.

Other typical municipal services are contracted, including Police Services from the RCMP, a contracted Bylaw Enforcement Officer, a contracted Development Officer, and other contracted professional services from a law firm, an engineering company, and an auditing firm.

### **Consultations Beyond Municipal Councillors and Staff**

In addition to all members of Town Council and most of the management and staff of the Town, interviews were conducted with a number of citizens of Lamont. Without explicitly naming all of the individuals, they included people who have been concerned about (and occasionally complained about) the actions of Town Council and/or the administration. They included people who are philosophically supportive of the work that Council does, but also have clear ideas about how they believe that work could be done better.

Some people shared experiences of what they perceived to be poor customer service from Town staff. Some felt they had been given poor advice or even inaccurate advice or direction. Some felt that in response to what they thought was a fairly routine and straightforward issue or complaint about something on their street or elsewhere in the community, they had been rebuffed or effectively told to deal with it in some way themselves, even though they thought the Town should have had a clear role in resolving the issue.

Some people feel the Town has not expressed sufficient expertise or adequate flexibility to attract and retain businesses in the Town. This has been expressed in a couple of different ways, such as: Council and administration do not have sufficient business acumen to recognize when a good opportunity is being presented; or, perhaps there are unreasonable bureaucratic hurdles being put in the way of businesses who could bring tangible benefits to the town and its citizens. While the owners and managers of some businesses have had the patience to wait out or overcome some of those hurdles, others may have given up and simply gone to another community to set up shop where they perceived a warmer welcome or at least a more informed dialogue.

Other individuals shared long-term memories of being treated inappropriately (in their opinion) by Town staff in one or two very specific situations. As a result of those situations, the individuals have simply maintained a very critical eye on essentially every move that Council or the administration makes and draws attention to all perceived errors, whether those errors are truly significant or not.

The impression gained from all of these interviews is that all of the people interviewed have the well being of the community of Lamont at the root of their concerns. They want tax dollars used wisely and efficiently. They want a sense of pride in the town in which they live. They want everyone to be treated with respect by those they elect and by Town staff. They want more people and businesses to locate here to bring a sense of excitement, of growth, of progress – of catching the tail of the current resource development boom in the whole province and riding it through whatever “bust” may inevitably be coming and right into the next boom!

As has already been suggested in this report, and as was suggested during the interviews with most, if not all, of the persons who talked with the inspector, this report may not deal explicitly with all of their concerns. In some cases their conversations did flag something that could be followed up on and they may recognize it in the remainder of this report or in the recommendations. In other cases, the concerns expressed are outside the mandate of this inspection and need to be dealt with in other processes.

The willingness of all of these persons to be involved in the inspection process is hereby recognized and appreciated. Thank you for caring enough about your community to come forward and express your concerns (and even a few compliments) for the benefit of this process.

## RESULTS OF THE INSPECTION PROCESS

### “The Elephant(s) In the Room”

It was expressly stated from the outset of this inspection process that it was dealing with the Town of Lamont as it is functioning today – in December 2012 through February 2013. However, the situations and circumstances that originally led to the Town Council requesting that the Minister of Municipal Affairs conduct an investigation in the first place could not be ignored by anyone involved. The next few paragraphs outline those circumstances and acknowledge them – so that the remainder of the report and recommendations (and, indeed, the town) can move beyond them.

Virtually every person who was involved with Council between the election of October 2010 and December 2011 characterized that year as a “hell” that they did not enjoy at the time and have no desire to live through again.

Many sets of meeting minutes contain clues to the apparent conflict on Council: angry exchanges between members of Council; angry exchanges between members of Council and members of the public appearing as “delegations” or as part of “question period;” frequent references to perceived violations of (or to the authority of) the Municipal Government Act; frequent votes decided by margins of 4 to 3 either way; apparent expressions of impatience with processes from individual Councillors, from the Mayor, and even from members of the public (who in some cases were members of committees set up to advise Council on specific issues or projects).

Any number of factors could be cited for this conflict. A few could include:

- Three new members of Council were elected in October 2010 who were challenging some of the status quo processes and assumptions
- New members and experienced members did not necessarily fully trust each other
- There was a developing dynamic of concern about the actions of the CAO
- For some members of Council there was some concern about the actions of the Mayor
- For the Mayor there was concern that sometimes process was not being followed and that sometimes there was a concerted effort on the part of some Councillors to simply oppose him almost regardless of the issue under consideration
- As a backdrop to all of this, there was the stress of legal action taken against the Town, and taken by the Town, with respect to a failed development agreement a few years earlier
- And on top of that was the stress of the debate about, and ultimate approval of, construction of a new Town Office Facility.

The entire situation ultimately came to a head in a series of four events, each of which have had their own set of controversies, suspicions, and even ongoing debate right up to the present:

- Mayor Denis Durand resigned his position on September 28, 2011. His letter of resignation cited the divisions on Council and appealed to Councillors to find unity and vision to move the town forward.
- The by-election to replace Mayor Durand was won by acclamation by Councillor Bill Skinner and he was sworn in as Mayor on November 8, 2011. Mayor Skinner's candidacy was challenged by some individuals on the basis that he had not resigned his Council seat in sufficient time prior to Nomination Day as required by legislation. Mayor Skinner publically acknowledged the error and requested the community's support in view of the fact that no other challenger had come forward. No formal legal challenges were initiated and Mayor Skinner retained his office.
- At the meeting of November 17, 2011, Council unanimously approved a motion to request the Minister of Municipal Affairs to conduct an investigation into the "management, administration, and operations" of the town. A similar motion had been narrowly defeated earlier in the year.
- At the Special Council Meeting of December 7, 2011, a motion was passed declaring that the CAO "will leave our employment on December 7, 2011, as per the agreement drawn up and signed on this date." This followed at least three months in which Council meeting minutes made reference to *in-camera* meetings about "personnel" and made explicit references to the performance review process for the CAO. As of the drafting of this report (March 1, 2013), the position of CAO has yet to be filled on a permanent basis.

In the process of this inspection former Mayor Durand explicitly requested an interview to discuss his perspectives on the tumultuous year of 2011. This inspector thanks Mr. Durand for taking the time to discuss that period.

This inspector did not seek an interview with the former CAO. There was no intention to do so from the outset of the inspection because of the desire to focus on the present circumstances of the Council and administration rather than trying to "fix" the past. The potential for any reassessment of that strategy was removed less than two weeks after this inspection was initiated. On December 12, 2012, high profile media outlets broadcast stories concerning the former CAO and his alleged contacts – both some years prior and in the immediately preceding months – with the developer who is on the other side of the law suits with the Town of Lamont concerning the failed development initiative in the town. With those stories now public, it became highly inappropriate to try to involve the former CAO in this inspection due to the risk of "muddying the waters" between this level of inspection versus the higher level legal processes and investigations that were reportedly initiated as a result of those media stories.

Now – having named and described the "elephants in the room" – let us move on...

## Inappropriate Actions, Processes, or Procedures

A primary observation concerning the conduct of Council meetings is that there is currently no Council Meeting Procedures Bylaw. Section 145(b) of the MGA authorizes a Council to pass a bylaw to define its meeting procedures. It is a “may” provision as opposed to a “must” provision of the MGA, but it is an important tool in ensuring the efficient, timely, and orderly conduct of meetings of Council and of its committees. It is strongly recommended that a municipality have such a bylaw.

It must be noted that the Town, as of the writing of this report, is currently working on such a bylaw. The inspector had the opportunity to review drafts of the bylaw at least twice before concluding the inspection processes.

## Instances of Non-Compliance with Legislation Requirements

The most blatant non-compliance with legislation was observed in the minutes of the Council meeting of December 14, 2010, as recorded during the discussion of the minutes of the Special Council Meeting of December 9, 2010. Councillor Strong is quoted as stating “that he abstained from voting on the motion to go into Committee of the Whole in Camera.” The issue, apparently, was that the draft minutes stated the motion was “Carried Unanimously” and he (and Councillor Brown – who stated he actually voted against the motion) said the minutes should just record that the motion “Carried.”

Section 174(1) of the MGA states: A councillor is disqualified from council if...

(f) the councillor does not vote on a matter at a council meeting at which the councillor is present, unless the councillor is required or is permitted to abstain from voting under this or any other enactment;

The reasons that would require or permit a councillor to abstain from voting on a matter before council generally have to do with “pecuniary interest” or issues around public hearings. Neither of those provisions would be relevant to a motion to moving a meeting *in-camera*. If challenged, Councillor Strong could have been disqualified from Council for choosing not to vote on this question.

Without de-briefing this situation with Mr. Strong (he is no longer on Council, having moved away from the community) it is not possible to definitively determine why he thought he should be able to abstain from voting on this question. One possible explanation is that he had not been told about the implications of abstaining without expressed authority to do so. This is a matter of training of Councillors in their roles and responsibilities.

In the interviews with members of Council, very few recalled having any kind of explicit orientation or training in the roles and responsibilities of a councillor. They may have had briefings on the current issues facing Council and perhaps the strategies for dealing with those issues, but nothing that told them how a councillor, or a council collectively, can



legally act. Training and orientation of councillors to their roles and responsibilities is a primary recommendation of this report.

### **Instances of Misconduct of Councillors or Administration Staff**

The closest thing to “misconduct” of councillors that was observed during the inspection has to do with pecuniary interest. Pecuniary interest is defined in some depth in sections 169 through 173 of the MGA. Despite this detailed treatment, it is not a straightforward issue.

The basic concept of pecuniary interest is that councillors should not speak or vote on matters before Council that may have a financial impact on them personally, on their employer, or on specific members of their family. (This is a VERY brief and inadequate explanation.) The matters before Council of concern in this inspection have to do with the residences of three members of Council being located on two different lanes being considered for expensive maintenance or reconstruction. It is reasonable to ask if there may be a pecuniary interest in a councillor voting on something that might have a beneficial impact on the value of their property.

Two members of council told the inspector that they had not even thought about that aspect. It had not occurred to them. They felt they were discussing maintenance work on a roadway in the same manner that they would discuss any roadway. Further, neither was lobbying for any special treatment or upgrading of the lane. They were both looking for the lane to be basic and drivable. The third councillor had actually given it some thought, but basically came to the same conclusion that the issue had to do with basic maintenance and should not have been viewed as special treatment for the alley because a councillor happened to live there. The work would have equal benefit for all residents along the alley, and it was not to be upgraded above normal standards.

The related recommendation for this is to ensure all members of Council have a solid orientation and training session on their roles and responsibilities and that pecuniary interest is one focus of the training. In absence of a clear answer to the questions of pecuniary interest, a councillor may decide to take responsibility for such questions themselves and seek their own legal opinion.

### **Improvident, Improper, or Irregular Matters**

These three words (improvident, improper, irregular) feature prominently in the objectives of municipal inspections. The definition of “irregular” provided by the dictionary in Microsoft Word includes the following: “behaving unacceptably; unauthorized; unofficial; substandard.” It is into this definition that I would classify the following episode.

In early January 2013 the Town circulated a “Notice” to a number of residents concerning plans to install new “smart meters” on their water meters. After providing instructions on how to arrange an appointment for this change, the following sentence appeared: “If your meter has not been replaced or an appointment has not been scheduled by February 21 your water will be disconnected.” My question to the Town was: What is your legislated authority for disconnecting water service in this situation? The notice was revised for future distributions.

This was an unfortunate incident, but there should have been no physical harm done to anyone’s water supply and hopefully most residents did not even perceive the apparent repercussions of not arranging for their meter to be changed. This is mostly a situation of considering a motivation to gain compliance with a desired action, but not considering the legal implications of disconnecting residential water supply in February. A lesson was learned here. The recommended remedy is basic training in administrative law as it affects the operation of a municipality. Training of staff on an ongoing basis is a recommendation of this report.

## Other Things Noticed During the Inspection and Worthy of Mentioning

### Transparency of Council Meetings

Three regular Council meetings were attended in the Council Chamber of the Lamont Town Office. A number of observations can be made.

First, persons visiting the meeting have very little information provided about what is going on at the meeting. A one-page agenda is provided. However, it gives no information about the agenda items listed. There is no information about the contents of reports listed on the agenda, or any indication of motions that may be made.

Second, it is very difficult to hear discussion among members of Council due to the high extension on the front of the Council desk. There is also no sound system to mitigate the loss of sound behind this barrier.

Third, once discussion has been completed, the audience often has no idea what motion has just been made. It may have been inaudible behind the high extension mentioned above, or it may have arisen generally from discussion among the Councillors, but not explicitly stated before the vote. Alternatively, Councillors, with a report and a recommended motion written out before them, might simply say, “Mr. Mayor, I move the suggested motion.” This also leaves all members of the gallery uninformed as to the motion.

Recommendations to resolve these problems include:

- make the full agenda package, with all reports included (except those from any *in-camera* portion of the meeting), available to all persons attending Council meetings;

- mitigate the difficulty with hearing members of Council speak by installing a public address system and/or lowering the barrier on the front of the desk, and,
- ensure that everyone at least has a chance of knowing exactly what is being voted on by having the motion stated by the chair, the recording secretary, or the mover, before the vote is taken.

A fourth item related to Council transparency, which was “observed” through Council minutes rather than through direct observation at the meetings the inspector attended, is related to assistance provided by Town Council to various community organizations, activities and initiatives. There seems to be a general understanding on the part of Council that “we don’t waive fees” for the use of Town facilities for an event sponsored by a local organization. The apparent preference is to approve financial support based somehow on Council’s perception of the value of the event to the Town and its citizens. There is no written policy or guideline concerning the review or evaluation of any such requests. The concern or issue is twofold: an organization has no guidelines by which to know how much support is “reasonable” to request; and, second, Council has no way to objectively determine how much support is reasonable for one event as compared to another. Requests appear to be handled as they are received and somewhat subjectively and may (or may not) be handled inconsistently from one request to the next.

It is recommended that the Town develop a written policy or guideline to assist with the preparation and the evaluation of any requests for assistance for events or initiatives in the community. Factors to consider might include the overall expenditures (and revenues if any) to organize and implement an event, the numbers of people expected to attend or benefit from the event, and perhaps the initiative of the organizers to secure funding from other sources if relevant. In addition, Town Council should have an idea of the range of assistance that is possible for them to approve, including maximum grants of funds for any one event or even the option of providing Town “branded” items for gifts or prizes if that is appropriate (e.g., cups, mugs, pens, calendars, etc.). It may also be worthwhile, especially if a number of requests occur on an annual, predictable cycle, for Council to have a specific budget for such assistance. A further factor in Council’s consideration of requests – especially if they are received late in the calendar year – then becomes whether that budget is fully expended. Finally, it should always be understood that the response from Council could be “no” to any request. The presence of a policy or guideline should enable Council to more easily say “no” to any proposal that does not meet its standards or criteria.

### **Bylaws Required By the Municipal Government Act**

A number of times through the inspection the question was raised, “Does the Town of Lamont have a bylaw about (fill in the blank – whatever topic) as required or suggested by the MGA?” Other than a “Procedures Bylaw” the answer most frequently was “yes.”

For example, there was a search for a position description for the CAO and it was realized that the MGA required a municipality to have a bylaw to define the CAO position. This was a requirement of the “new” MGA in 1995. Sure enough, a CAO Bylaw was found that had been passed in 1995.

Similarly, a question arose about the management of the Freedom of Information and Protection of Privacy (FOIP) Act in the Town, and whether or not there was a bylaw that identified who the “FOIP Head” was for the Town. FOIP came into effect for municipalities in 1999. Perhaps not surprisingly, a municipal FOIP Bylaw was tracked down that had been passed in 1999! (The CAO is identified as the “FOIP Head.”)

A number of observations are possible in response to this.

First, it seems, at least in response to a few random questions, the Town of Lamont has most, if not all, of its required bylaws in place.

Second, although decidedly “low tech” (paper copies in binders of bylaws sorted essentially by the year they were passed with an index at the front of each binder), the bylaws can be found when needed.

Third, even if the bylaw is in place and it can be found, sometimes it is a good idea to refresh a bylaw to ensure that it is up to date and meets current needs and organizational structures.

A recommendation resulting from this observation is that, over a period of time, the Town of Lamont review all of its bylaws to root out old and irrelevant ones and rescind them, update old ones that are still needed (and rescind the old ones), and also put in place the procedures to authorize consolidation of bylaws which may have an original bylaw and a handful of amending bylaws, but are not yet ready for a full re-write and the rescission of those existing bylaws.

### **Insurance Requirements of the MGA**

This observation is to satisfy one of the members of the public who spoke with me. The concern raised was a question of whether or not the Town of Lamont had arranged to bond its employees who handle money.

Section 212.1(1) of the MGA states as follows:

Fidelity bond

212.1(1) Starting with the 1998 financial year, the council of each municipality must annually obtain a fidelity bond, or equivalent insurance, in an amount the council considers appropriate.

- (2) The fidelity bond or equivalent insurance must cover
  - (a) the chief administrative officer of the municipality,

(b) the designated officers of the municipality, and  
(c) other employees of the municipality  
while carrying out duties relating to any money or security belonging to or held by the municipality.

The answer to the question from the Town's insurance company is, "Yes, the Town of Lamont does have insurance for this very purpose."

## Conclusion

The conclusion to be drawn from this inspection, in the opinion of this inspector, is that the Town of Lamont appears to be a nice place to live and is in relatively good hands with its Council and administration. However, there should be no sense of complacency taken from that statement. The recommendations that follow are substantial and may take some significant time for them all to be implemented.

It is hoped that they will realize the benefits for Council, for the administration, and for the citizens, that were hoped-for when the inspection was requested.

--Stephen Thompson, Municipal Inspector  
MuniCon Ltd.  
March 2013

## Recommendations

The following recommendations are provided to ensure the Town of Lamont improves its processes in a number of areas. Some of the recommendations should be considered in the context of the text of the report that concerns the subject matter of those recommendations. Other recommendations may be more or less self-explanatory.

1. It is recommended that the Town of Lamont adopt a “Council and Committees Meeting Procedures Bylaw” (exact name to be determined by the Town) to guide the conduct of the meetings of Council and to define the role of, and guide the conduct of any committees to which Councillors are appointed, especially committees of which Councillors are the only members.
2. It is recommended that the Town of Lamont adopt measures to ensure that the agenda of Town Council meetings, the discussions and decisions of Town Council meetings, and the minutes of Town Council meetings are fully accessible to and, to the extent of reasonable accommodation, fully understandable by anyone who takes an interest in Council processes and especially by anyone who attends Council meetings.

In support of this overall recommendation, a number of related recommendations are also provided:

- a. It is recommended that full agenda packages, including all reports (except those intended to be discussed in *in-camera* portions of meetings) be made available via the Town’s Internet website at essentially the same time the agenda packages are provided to members of Council (typically the Thursday afternoon or Friday morning prior to the regularly scheduled Council meeting on the following Tuesday evening).
- b. It is recommended that paper copies of the full agenda package be made available to those attending Council meetings in person.
- c. It is recommended that all reports, including update information reports from Town staff, be prepared and presented in a consistent format to be determined by the CAO to ensure that information is presented clearly and legibly, that any recommendations are highlighted, that the name and position of the person who prepared the report is included, and that the date the report was prepared (or the date of the meeting at which the report was presented) is also included.
- d. It is recommended that, in order to improve the ability of persons in the visitors’ gallery to hear and to understand what is being discussed by Council, the height of the elevated extension of the front panel of the Council desk be significantly reduced or eliminated.

- e. Especially in the event sub-recommendation “d” is not possible at a reasonable cost, it is recommended that a public address system, including microphones for the use of all members of Council, the administration, and any persons making presentations to Council, be installed to ensure all elements of Council meeting discussions are audible to persons in the visitors’ gallery.
- f. It is recommended that at the point a motion is put to a vote, the chair is able to clearly state the motion or amendment that is the subject of the vote for the benefit of all members of Council and for the benefit of all persons in the visitors’ gallery. If the chair is not able to do this, the chair may ask the mover or the CAO or the Recording Secretary to re-state or read the motion on the floor. If no one is able to recite or read the motion on the floor, the vote should not be taken until the motion can be stated and understood to the satisfaction of the Chair.

Note: this does not mean that the motion must be “acceptable” to all members of Council. That is, after all, the point of taking a vote. It means that, whether they are “for” or “opposed” to a motion, all members of Council are clear as to the motion on which they are voting.

- g. It is recommended that the seating arrangement in Council Chamber be amended to move the CAO and Recording Secretary to a table separate from the members of Council to ensure the distinction, for the benefit of Council, the administration, and observers, that administration functions in an advisory and support capacity to Council and to avoid any confusion that they may be members of Council.
- h. It is recommended that discussions, motions, debates, and votes related to matters brought before Council by a delegation be dealt with immediately following the delegation’s presentation to Council, rather than at a later point in the meeting.

This provision ensures the delegation is aware of the decision of Council and ensures that the delegation is still available to answer any questions from Council. This provision does not require that Council make a final decision on a request from the delegation. The action taken may be to approve or to deny the request, or it may be to request further information be provided by the delegation or the administration at a future meeting, or the action may be that Council decides to put off a final decision on the matter to some specific time in the future for any reason that Council may identify. The point here is simply that the delegation can leave Council chamber knowing that Council has taken

- some action on their request – or that they have clearly decided not to take any action at this time.
- i. It is recommended that the use of audio or visual recording devices be allowed during Council meetings, although the use of camera lights or flashes may be restricted or prohibited to avoid undue distraction during discussions.
  - j. It is recommended that Council adopt a policy to guide consideration of requests for assistance for various community events or organizations to help ensure consistent treatment of all such requests.
3. It is recommended that every member of Council, following every general election, participate in training or orientation to the roles and responsibilities of a municipal council and of individual councillors and of the mayor. This training should be provided by the CAO and may be facilitated directly by the CAO or facilitated by a person or persons with the relevant expertise who may be contracted by the CAO for this purpose.
  4. In addition to the training recommended above, it is recommended that members of Council be identified for potential participation on the Municipal Planning Commission, the Subdivision and Development Appeal Board, and the Assessment Review Board, and that they obtain training specific to the legal requirements and responsibilities related to these boards.
  5. It is recommended that the Town of Lamont take the necessary steps to appoint a permanent Chief Administrative Officer as soon as possible and, in any event, prior to the general election scheduled for October 2013.
  6. It is recommended that the CAO ensure an organization chart is prepared to graphically show each administrative and operational position in the Town and the positions to which each position is responsible for management, supervision and evaluation.
  7. It is recommended that the CAO ensure that a position description is created for every position on the organization chart, including that of the CAO. Position descriptions are to accurately describe the responsibilities of each job, the position to which it is responsible for management, supervision and evaluation, and the required and desirable qualifications for a person performing those responsibilities. Further, all position descriptions should be updated on a regular basis, at minimum every 3 to 5 years depending on the perceived rate of change in the position.
  8. It is recommended that an annual professional development plan be established by the CAO for all staff of the municipality, including the CAO, to



ensure all employees are current in the skills, knowledge, certifications, and expertise required to perform their employment responsibilities.

9. It is recommended that the Town of Lamont conduct a review of all bylaws in its records with an objective of updating them where necessary, consolidating bylaws of similar or identical purpose, and rescinding bylaws that are no longer necessary. Further, bylaws that are of continuing force and effect, regardless of age, must be managed such that they are readily accessible at any time. Further still, bylaws that are rescinded may need to be retained and consigned to an archive for potential historical reference in the future. Reference to legal requirements may be necessary to make this determination.

## Attachment 1: Legislative Authority for Municipal Inspections

From Section 571 of the *Municipal Government Act*, RSA 2000, Chapter M-26:

### Inspection

**571(1)** The Minister may require any matter connected with the management, administration or operation of any municipality or any assessment prepared under Part 9 to be inspected

- (a) on the Minister's initiative, or
- (b) on the request of the council of the municipality.

**(2)** The Minister may appoint one or more persons as inspectors for the purpose of carrying out inspections under this section.

**(3)** An inspector

- (a) may require the attendance of any officer of the municipality or of any other person whose presence the inspector considers necessary during the course of the inspection, and
- (b) has the same powers, privileges and immunities as a commissioner under the *Public Inquiries Act*.

**(4)** When required to do so by an inspector, the chief administrative officer of the municipality must produce for examination and inspection all books and records of the municipality.

**(5)** After the completion of the inspection, the inspector must make a report to the Minister and, if the inspection was made at the request of a council, to the council.