

---

**Alberta Municipal Affairs**

**Brazeau, Municipal Inspection**

**Final Report**

---

## Table of Contents

Executive Summary .....	3
Background .....	8
Methodology .....	8
Relationships .....	10
Within Council .....	10
Between Council and the CAO .....	11
Council Operations .....	12
Governance Practices .....	12
Orientation .....	12
Strategic Planning .....	13
Council Decision Making .....	13
Council Confidentiality .....	15
Meetings of Council .....	17
Public Participation .....	18
Minutes of Council .....	20
CAO Performance Evaluation .....	23
Pecuniary Interest and Conflict of Interest .....	26
Committees and Committee Appointments .....	30
Code of Conduct .....	31
Council Bylaws .....	32
Land Use Bylaw .....	33
HR Practices .....	1
Employee Files .....	36
Performance Reviews .....	36
Placement of and Role of HR within the Municipality .....	43
Staffing Levels .....	44
Planning and Development .....	46
Financial Position and Financial Practices .....	47
Mill Rate Bylaw Process .....	48
Inter-Municipal Agreements .....	50
Costs .....	50
Inter-Municipal Cost Sharing Process Concerns .....	52
Governance Practices .....	53
Concluding Comments .....	55

## Executive Summary

A petition from electors was received by the Minister of Municipal Affairs on November 27, 2014 requesting the Minister to undertake an inquiry into the affairs of Brazeau County under section 572 of the *Municipal Government Act (MGA)*. The petition was deemed sufficient. In response to this petition, the Minister ordered that an Inspection be completed, and appointed Russell Farmer and Associates Consulting Ltd as Inspectors.

The report arising from this Inspection is divided into six major sections: 1) Relationships, 2) Council Operations, 3) HR Practices, 4) Planning and Development, 5) Financial Position and Practices, and 6) Inter-Municipal Agreements. The Inspection has resulted in twenty-four (24) recommendations for changes to the manner in which the County is being governed and administered.

### Working Relationships

The Inspection assessed the working relationship within Council and between Council and the CAO. There is evidence of mistrust of Council and of a split amongst the Councillors. However, this does not appear to be impairing overall Council functioning. While the feedback received from interviews is inconsistent, the relationship between Council and their CAO appears to be stable and generally positive.

This section of the report resulted in one recommendation:

1. The CAO be relocated in Council Chambers to be separated from Council.

### Council Operations

The Inspection assessed several components of Council operations and governance practices. Some specific areas included:

**Orientation** – Council received an effective orientation at the outset of their term in office.

**Strategic Planning** – Council has adopted an effective strategic plan which is regularly reviewed and updated.

**Council Decision Making** – There is evidence that Council is making repeated, sometimes contradictory decisions on the same issues in the absence of full information.

**Council Confidentiality** – Significant concerns have been raised about Councillors failing to meet their duty to maintain confidentiality.

**Public Participation** – through the use of “Divisional Meetings” and “Public Input Sessions” during regular Council meeting, the County is engaged in poor stakeholder engagement practices which are creating governance issues.

**Minutes of Council** – The County is engaged in good practices with respect to the adoption of and access to Council minutes. However, Council minutes contain an unnecessary excess of content.

**CAO Performance Evaluation** – Council is engaged in annual performance evaluations of their CAO. However, the format, process, and content of the performance evaluation can be improved.

**Pecuniary Interest and Conflict of Interest** – The Inspection identified a number of instances of Councillors acting with pecuniary interest. However, it was generally determined that these items were minor, related to previous Councils, had been appropriately addressed by Council, or were the result of unintentional errors.

**Committees and Committee Appointments** – Council’s committee appointments and commitments were generally found to be appropriate. An issue was identified with the manner in which Council remuneration and expenses for committees is currently budgeted.

**Code of Conduct** – Council has adopted the elements of a Code of Conduct, but has not combined them into a single document.

**Council Bylaws** – Bylaws are well developed and consistent with the requirements of the MGA.

**Land Use Bylaw** - Brazeau County’s Land Use Bylaw is a significant issue for the County. However, the County is currently engaged in an appropriate process to revise it.

As a result of the issues identified in Council operations, the Inspector made the following recommendations:

2. Council adopt a decision making process that considers required information, sources of information, and sources of stakeholder input to the decision, prior to engaging in deliberation or voting. If information is outstanding, decisions should be tabled for a later meeting of Council.
3. Council develop and adopt a Code of Conduct that is reviewed regularly, and affirmed by Council following each election or by-election.

4. Council receives supplemental training in matters of confidentiality and pecuniary interest.
5. Council discontinue Divisional Meetings
6. Council discontinue “Public Input Sessions” during Council meetings and that public participation in Council meetings be limited to delegations.
7. The County complete the process of updating the website to include all agendas, Council packages, and Council minutes.
8. Council discontinue the use of “Carried Unanimously”, using only Carried and Defeated with respect to Council motions. The exception to this is cases where unanimous votes are required by the *MGA*.
9. The County eliminate the use of descriptive text in minutes. Minutes should be restricted to identifying agenda items and resolutions of Council.
10. Council and the CAO participate in a review of the CAO performance appraisal format to ensure that assessments are objective, forward looking, and reflect the priorities of Council.
11. Council revise the format of budgeting for committees to provide for a lump sum budget item for all of Council.
12. Council and administration complete the current process for amending the Land Use Bylaw and Municipal Development Plan.

### **HR Practices**

The Inspection reviewed HR policies and practices, staffing levels, and the role of HR within the County’s administration. Some specific issues were identified with:

- The manner in which performance reviews are retained
- Consistent application of policy
- Required policy amendments
- Expanded HR processes to improve the overall effectiveness of HR practices

The following recommendations relate to Human Resources:

13. Administration discontinue the practice of sealing performance reviews in a manner that they can not be reviewed by the HR Manager
14. Update the County's Workplace Harassment Policy to address bullying in the workplace
15. Senior administration take responsibility to ensuring consistent application of personnel related policies across all parts of the organization
16. The County initiate the process of exit interviews with outgoing employees
17. The County begin a process of regular staff satisfaction surveys
18. The County review and amend its overtime policy to address the requirement for an overtime agreement

### **Planning and Development**

The Planning and Development Department has recently undergone a significant transition in leadership, staffing and practices. These changes have generally had a positive impact on the Department which is now operating more effectively in meeting timelines. The following recommendation was made with respect to Planning and Development.

19. The County complete an audit of development permits issued or amended during a five year period beginning in 2008 to determine if there is a pattern of irregularities that needs to be addressed

### **Financial Position and Practices**

The Inspector reviewed the financial position of Brazeau County, and the County's financial practices. The following were the core findings:

- A review of municipal taxes, debt, and major areas of expenditures demonstrates that the County is in a very good financial position.
- Financial processes and practices, including financial controls, policies and budgeting, are well established and demonstrate good compliance.
- Passage of the 2014 Mill Rate Bylaw demonstrated significant irregularities that necessitate a review of the County's practices.

The following recommendations are made regarding financial practices:

20. The County complete a review of the budget and mill rate bylaw adoption processes including current timelines in order to ensure reasonable time for Council deliberation.

21. The County adopt a process of communication/consultation relating to the mill rates of Town of Drayton Valley residents impacted by Brazeau County taxation decisions.

### **Inter-Municipal Agreement**

A major area of concern identified by petitioners through the Inspection process related to the level of funding being provided to the Town of Drayton Valley through inter-municipal agreements. The Inspector did determine that recreation and culture funding to Drayton Valley, and the County's overall costs in these areas, were higher than those in comparable municipalities. However, it was not determined that these expenditures are outside of the powers and mandate of Council, nor was it determined that these expenditures unreasonably impact the financial position of the County or its residents. Issues were identified with processes related to inter-municipal agreements including due diligence, agreement development, and participation in programming.

The following recommendations are made regarding inter-municipal agreements:

22. The County adopt a process for due diligence regarding joint agreements that includes structural assessments, financial disclosure, and effective out clauses.
23. The County review current and future agreements to ensure Brazeau County has input into programming decisions attached to funding agreements.
24. The County work with the Town of Drayton Valley to develop a consistent funding formula for capital asset repair and replacement.

### **Concluding Comments**

This Inspection identified a number of areas of concern with Council and administration. Key amongst these are:

- Working relationships between Council members;
- Matters of pecuniary interest and confidentiality;
- HR practices;
- The decision making practices of Council during Council sessions;
- The process for passing the County's mill rate bylaw;
- The structure and process for entering into inter-municipal agreements;

While these matters are significant, we view them generally as opportunities to improve process and understanding. None of the matters contained in this report qualify as indications that the County is being governed or operated in an irregular, improper or improvident manner.

## Background

Brazeau County (Brazeau or The County) is a municipal district in west-central Alberta with a 2011 census population of 7,201. The County contains a portion of the West Pembina Oilfield and portions of the Rocky/Clearwater and Whitecourt forests. As a result, Brazeau is blessed with strong Forestry, Agriculture and Oil and Gas industries.

Brazeau encompasses an area that was originally under the jurisdiction of three neighbouring municipalities. Following a significant lobbying effort over approximately five years, lands belonging to Parkland County, Leduc County, and a small portion of Yellowhead County were combined to create Improvement District No. 222 on December 31, 1987. This improvement district was subsequently incorporated as the Municipal District of Brazeau No. 77 six months later on July 1, 1988.

A petition from electors was received by the Minister of Municipal Affairs on November 27, 2014 requesting the Minister to undertake an inquiry into the affairs of Brazeau County under section 572 of the *Municipal Government Act (MGA)*. The petition was deemed sufficient. In response to this petition, the Minister ordered that an Inspection be completed, and appointed Russell Farmer and Associates Consulting Ltd as Inspectors.

A number of specific points of concern were identified through interviews as leading to the petition. These included:

- Perceived excessive financial support for the Town of Drayton Valley;
- Concerns related to private meetings, especially those with the Town of Drayton Valley;
- Issues with individual Councillors related to pecuniary interest and confidentiality;
- Electoral issues related to the number of polling stations for a by-election and campaign contributions; and
- Business relationships between Councillors and developers.

This Inspection report outlines the Inspectors findings and recommendations with respect to these points of concern, as well as other areas of enquiry identified through the Inspection process.

## Methodology

The Inspection has been undertaken by conducting a review of the following:

- Municipal records including Council minutes, human resource documents, Council packages, County Policies, and Council files;

- Business decisions made and the rationale of those decisions;
- County bylaws, ensuring completeness, proper signing and sealing, and filing in a proper register;
- Financial records including budgets, and audited financials;
- Documents and correspondence relating to matters of interest identified during interviews; and
- Various documents provided by members of Council and administration.

In addition to the above documentation and files, interviews were undertaken with the Reeve, current and past Council members, the current CAO, and all directors and direct reports to the CAO. Additional interviews were conducted with past employees, concerned residents, and residents who signed the petition sent to the Minister.

This Inspection was completed by Russell Farmer and Associates Consulting Ltd. Although Russell Farmer was the Inspector appointed by the Minister of Municipal Affairs, other employees of the firm were engaged in the Inspection process completing document reviews and interviews.

The review focused on three key areas within the organization:

- Governance:
  - To review the functioning of Council as a leadership body providing strategic direction;
  - To review decision making processes;
  - To assess understanding of roles and responsibilities;
  - To evaluate current working relationships amongst Council and between Council and administration.
- Operations:
  - To assess the budgeting process, financial operations, and financial controls;
  - To assess administrative processes and policies;
  - To review the current financial position of the municipality;
  - To evaluate Council meetings for efficiency and effectiveness.
- Structure:
  - To identify whether current municipal employees have the capacity to carry out their duties as required;

- To assess the overall organizational model looking at size, reporting relationships, and responsibilities;
- To evaluate the use of committees and determine if they are operating effectively.

It is important to place some context to the Inspection process. Municipalities have “natural person powers”, meaning that they have the ability and discretion to make and enact decisions on their own behalf; subject to the limitations of legislation. In addition, checks already exist on the power of Council and the municipality through the election process, and through existing legal remedies. It is therefore important to acknowledge that:

- Inspections are not a “balance of opinion” process. This is not a vote. Hearing the same concern from multiple people does not make it right. Nor does hearing that people are happy with a decision of Council necessarily make it a “good” decision.
- This is not a referendum on Council. Residents elect their Council for a period of four years. At the conclusion of the four year term, residents may choose to retain or change their elected officials based on the perceived performance of Council.
- The Inspector does not arbitrate individual disputes between Council or the Municipality and interested stakeholders. If a resident or organization believes that they have a legitimate complaint against a decision of Council, the municipality, or a municipally controlled entity that has caused them harm, legal remedies exist through the court system. Inspections do not replace that legal remedy.

## Relationships

This section of the report focuses on the working relationships within Council, and between Council and the Chief Administrative Officer (CAO). The comments provided are focused on the current Council and moving forward rather than on past Councils.

### Within Council

Interviewees identified concerns regarding working relationships on Council.

Reeve Patricia Vos resigned from Council Nov 10<sup>th</sup>, 2014 and in March, 2015, a by-election was held. At this time, Bart Guyon was elected as Reeve. Mr. Guyon had previously served on Council, but came off Council following a Municipal Inspection conducted by George Cuff in 2004.

It was identified for us that Council appears to be divided with Reeve Guyon and Councillor Heinrich on one side, and Councillors Gressler, Westerlund and Thompson on the other. The Inspector reviewed Council minutes, and there does appear to be evidence of consistent voting patterns on key issues; including the County’s mill rate bylaw (discussed later in the report).

However, ideological divisions on Council are not uncommon, and are not necessarily discouraged. There does not appear to be strong evidence that Council has been unable to operate effectively or make decisions as a result of divisions on Council.

### **Between Council and the CAO**

The relationship between Council and their Chief Administrative Officer is not consistently represented as either positive or negative. Some Councillors report a positive working relationship, while other's state that it is strained. The Inspector identified the following:

- Most Councillors report that they get good information from the CAO, that he is very knowledgeable on legislation, and that his conduct is seen as professional.
- Some Councillors see the CAO as overly “black and white”, with challenges on inter-personal engagement.
- There is a perception that the CAO feels he is under intense scrutiny, so he uses legal opinions too frequently.
- Councillors have stated that the majority of Council supports the CAO.
- Review of the 2015 performance review for the CAO provides only positive comments relating to Mr. Schoeninger’s relationship with Council and his role as CAO. No areas for improvement are identified. It indicates a strong, positive relationship and that the CAO has the support of Council.

One matter for consideration is the position of the CAO in Council chambers. The CAO has repeatedly switched position in the room. At times, he has been seated beside the Reeve, at others he has been seated at the front of the room with other representatives of senior administration. The best practice is to have the CAO and administration separated from Council to create a clear perception of role separation.

**It is recommended that:**

1. The CAO be relocated in Council Chambers to be separated from Council.

## Council Operations

### Governance Practices

Municipalities must respect the primacy of Council as a decision making body. Only Council as a whole has the power to set policy, to pass motions, or to direct the activities of the CAO. Individual Councillors have no power or ability to set policy outside of Council chambers; only when acting as a part of Council as a whole. Section 197 of the *MGA* requires that Council and Council committees conduct their meetings in public unless the matter to be discussed is within one of the exceptions to disclosure contained in the *Freedom of Information and Protection of Privacy Act*. Ensuring that all debates and decisions of Council occur in public enhances transparency by ensuring that decisions are not occurring in back rooms or arising from private conversations. Furthermore, it is important that the public be allowed to provide input to the decision making process and that members of Council do not reach conclusions before all information is provided and a public debate can occur. Transparency should always be an underlying principle of good governance.

In evaluating Council as a leadership body, this Inspection has looked at several key areas of Council activity.

### Orientation

Council members have been provided with an adequate governance orientation. Orientation is a critical process for returning and new Councillors who are stepping into the new and unique role of elected official. Some common Council orientation topics include:

- Governance – roles and responsibilities, principles of effective governance, policy based governance, the role of committees and their function and policy based decision making.
- Planning documents - budgets, capital plans, strategic plans, municipal development plan, area structure plans and documentation related to significant projects that are underway within the municipality.
- Policies - key policy documents include the land use bylaw, procedural bylaw, Council code of conduct (if it exists), financial control policies, Council remuneration policy and any other policies that administration identifies to be critical.
- Administrative Processes - Key processes for a new Council include logistics such as accessing email, buildings, etc., how to fill out forms, and any other processes related to conducting Council sessions and participating in committees.
- Engaging with the Public – answering questions and requests for information, role of Council at public forums, and media training

Following the 2013 municipal elections, Brazeau County brought in a governance specialist to present a workshop for Council. Council also received a presentation by the County's legal counsel on the legal requirements of being a Councillor. We have reviewed the content of these presentations along with the Councillor Orientation binder, and we find them to be of good quality.

On Sept 3rd, 2014 another consultant was brought in to do a Councillor roles and responsibilities refresher following the by-election.

It appears that the County is engaging in good orientation processes and practices.

### **Strategic Planning**

A key function of Council is to provide a strategic vision for the municipality and to identify strategic priorities and goals in support of that vision. A strategic plan serves several key functions:

- It provides a sense of priorities for Council;
- It supports the development of Council agendas, allowing Council to act proactively, and not simply reactively as issues arise;
- It sets priorities for administration;
- It provides a framework to evaluate the success of both Council and the CAO in meeting the agreed-upon strategic priorities; and
- It provides a framework for operational planning and budgeting.

We have reviewed Council's strategic plan. Council has generally engaged in a strategic planning process one to two times annually. This planning process is supported by an external consultant. We are satisfied with the format and process that the County is currently using.

The Inspector assessed the County's processes for operational planning arising from the strategic plan, and the linkage between operational planning and budgeting. We have determined that these processes are well developed and effective.

### **Council Decision Making**

Our Inspection identified some concerns with the manner in which Council is engaging in decision making. At the outset of any decision making process Council should ask a series of key questions:

1. Is this decision time sensitive, or do we have time to engage in a detailed decision making process?

2. Do we currently have the information we need to make a decision?
3. What sources of information or professional advice are available?
4. Has our administration provided us with a recommendation based on their expert opinion?
5. What stakeholders are going to be affected, and do we have a responsibility to consult with impacted stakeholders?

A review of minutes shows that some recurring themes have occupied Council's decision making during the current term. One specific example highlighted by many Inspection participants related to a road project identified as Road project ID 55 (TWP RD 474 from RR55 to RR52). This was raised and addressed in the following meetings: 2014 – February 4, April 30, May 6, July 2, July 15; 2015 – February 27, May 19. A few excerpts from the minutes are as follows:

***February 4, 2014***

*Motion 125/14 “Moved by K. Westerlund to receive Mae Tryon’s letter of information. Carried Unanimously”.*

*Motion 126/14 “Moved by M. Gressler to table further discussion regarding TWP RD 474 to April 30, 2014....Carried.”*

***April 30, 2014***

*Motion 510/14 “Moved by M. Gressler to remove TWP RD 474 from RR52-RR55 from the 10 Year Capital Budget....Carried.”*

*Motion 511/14 “Moved by K. Westerlund that Administration research TWP RD 474 as a standard road and bring back to Council on May 20, 2014....Carried.”*

***May 6, 2014***

*Motion 576/14 “Moved by M. Thompson that Administration bring a breakdown of costs for mile by mile construction of TWP 474....Defeated.”*

***July 2, 2014***

*Referring to the petition follow-up TWP RD 474, motion 815/14 “Moved by K. Westerlund to receive for information. Carried Unanimously.”*

**July 15, 2014**

*Motion 879/14 “Moved by A. Heinrich to add Township 474 to the agenda...Defeated.”*

**February 27, 2014**

*Presented at the 10 Year Planning Session, motion 250/15 “Moved by M. Thompson to direct Administration to provide an updated cost evaluation on a per mile basis of TWP 474 from RR 55 and RR 52 by May 5, 2015 including both 8 m and 6.5 m road widths....Carried.”*

**May 19, 2015**

*Referring to the report presented to Council by Public Works on Township Road 474 from RR 55 to RR52 – Public Meeting Input Date, motion 573/15 “Moved by S. Mahan to schedule July 8, 2015 for a public input meeting at the Buck Creek Hall to receive input regarding the construction of TWP 474 from Range Road 55 to Range Road 52. Carried Unanimously.”*

Council has addressed this matter at seven different Council meetings with nine different motions, some contradictory, over a 15 month period, and still lacks a clear direction. Council needs to establish a clear direction on this matter, and move forward.

### **Council Confidentiality**

Section 153(e) of the MGA states that Councillors have a duty to keep in confidence matters discussed in private at a Council or Council committee meeting until discussed at a meeting held in public. Rules of confidentiality generally apply to information discussed in-camera. It appears that in some cases information from in-camera sessions has been leaked to residents in the community. During interviews for the project many key stakeholders expressed a concern that matters were not remaining in confidence. A number of examples of breach of confidentiality were provided, and verified.

- Councillor Anthony Heinrich identifies that he has, on repeated occasions, disclosed information which Council had determined was confidential, or which Council had not made a resolution to disclose. This includes the content of discussions between Brazeau’s Council, and the Council for the Town of Drayton Valley. During a meeting on September 4th, 2014, disclosure of the nature of a joint meeting between Councils resulted in Brazeau resident protests outside the meeting. Following a meeting with the Town, Councillor Heinrich wrote a letter to the editor in a local paper disclosing the content of the discussion.
- Councillors have disclosed in-camera discussions to the public regarding potential annexations.

- A Councillor disclosed confidential appraisal and employment information regarding the County's CAO to the CAO. Council had met in camera in the absence of Mr. Schoeninger to discuss performance appraisal related matters. The contents of these in camera discussions were disclosed without the consent of Council.
- During emergency services training, which should be a closed training session for Council, some Councillors invited members of the public without Council consent.
- Councillors acknowledged during interviews that they have disclosed confidential or in-camera information to their spouse or family members.

During interviews both Councillors and residents expressed concern with the exclusion of the public from certain types of meetings; including strategic planning and training activities. It should be clarified that permissible exceptions to disclosure do exist.

Sections 192 through 200 of the *Municipal Government Act* define the responsibility of Council with respect to meetings. The applicable points within legislation are:

- 197(1) Council and Council Committees must conduct their meetings in public
- 197(2) Council and Council Committees may close all or part of their meetings to the public if a matter to be discussed is within one of the exceptions to disclosure in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act*
- 197(3) When a meeting is closed to the public, no resolution of bylaw may be passed
- 198 Everyone has a right to be present at Council meetings and Council Committee meetings conducted in public

Section 24(1) of the *Freedom of Information and Protection of Privacy Act (FOIP)* allows for discretionary meetings of local public bodies that are not open to the public. It is generally accepted that Councils may have meetings closed to the public for the purpose of: strategic planning, team building, and training. Closed joint planning meetings with other government bodies (such as the Town of Drayton Valley's Council) would also be permissible, as any binding decisions would require a motion in a subsequent public session of Council. A review of meetings for Brazeau County's Council does not indicate that the Council has engaged in any closed meetings that would not qualify as permissible under FOIP.

As a governance practice, if a Councillor or Councillors believe that a matter should be discussed in public, he or she may raise that matter for discussion with Council prior to the closed meeting. If Council, as a collective body, still elects to have an in-camera or closed meeting, the contents of that meeting are considered confidential until such time as Council, as a collective body, chooses to disclose. An individual Councillor does not have discretion to make a unilateral

determination on disclosure. For this reason, there is strong evidence that Councillors have been violating Section 153(e) of the *MGA*.

It is noted that Brazeau County is using the term “in private” for closed discussions of Council. For clarity, and alignment with the terminology of applicable legislation, the terms “in-camera” for closed portions of a Council meeting and “closed session” for meetings that are not open to the public are preferred.

### **Meetings of Council**

Council for Brazeau County typically meets twice per month. The Council meetings are held on Tuesdays in the morning, called to order at 9:00 am.

Section 194 of the *MGA* allows the Chief Elected Official to call a special council meeting with less than 24 hours’ notice to councillors and without notice to the public if at least two-thirds of the whole council agrees in writing. This section of the *MGA* is intended to be an emergency measure when issues arise that cannot wait for a regular session of council. As a general guideline, special meetings should be used sparingly, as they violate the governance principle that decisions of council should be made publicly and that interested parties have a right to be notified and to attend all council sessions. When councils do make use of Section 194 of the *MGA*, it is expected that they will conduct only the business that necessitated the special meeting. Looking at some of the minutes for 2015, there were 10 noted special meeting dates:

- January 7 - Quarterly reports: minutes indicate an addition of Corporate Services – purchasing policy regarding gravel crushing, and Planning and Development – Planning Alliance and draft consultation plan
- January 12 - CAO annual performance appraisal (agenda not online): minutes indicate no additions
- January 16 - CAO annual performance appraisal (agenda not online): minutes indicate no additions
- January 29 - Off-site levy (agenda not online): minutes indicate no additions
- February 4 - CAO annual performance appraisal (agenda not online): minutes indicate no additions
- February 27 - 10-year capital planning session, and animal control: minutes indicate no additions
- March 11 - Modified voting procedure bylaw 654-15, building Canada fund-joint grant application, EPAC agreement (in private) (minutes not online)
- March 24 - EPAC joint ownership agreement, and EPAC lease agreement: minutes indicate no additions

- April 10 - (agenda not online): minutes indicate an addition of the Tax Rate Bylaw 865-15 public input and legal opinion
- May 25 - In-house strategy meeting: minutes indicate the addition of the Central Alberta Regional Museums Network, Community Halls, and Fire Status at a) Buck Creek and b) Fire Ban Status

It does not appear that notice was provided in meeting minutes for the following: January 29, February 4, March 11, March 24, April 10, and May 25. Brazeau County Council undertakes the use of waivers signed by councillors when special meetings are called without prior notice.

The Inspector has not identified any significant concerns with the scheduling of Council meetings, or the use of Special meetings.

### Public Participation

Council has been engaging in unnecessary practices intended to support public participation in Council meetings. Sections 192 through 200 of the *Municipal Government Act* define the responsibility of Council with respect to meetings. The applicable points within legislation are:

- 197(1) Council and Council Committees must conduct their meetings in public
- 198 Everyone has a right to be present at Council meetings and Council Committee meetings conducted in public

Council is under no obligation to change the location of meetings in order to accommodate residents in different portions of the community. Council is also under no obligation to allow for open public engagement in Council meetings.

The County's Council has historically been engaging in "Divisional Meetings". These meetings occurred in different locations in the County annually, and consisted of presentations by Council and/or administration, followed by an open forum for residents to ask questions of Council and administration. Public engagement is a positive objective for any municipality. However, public engagement should be structured and targeted to specific matters. Divisional Meetings appear to have been an open forum where residents could raise concerns on any matter, and expected an immediate response. Participants identified that these meetings became a forum that allowed residents to publically attack Council and Administration. The format of these meetings is poorly conceived for several reasons:

- Neither administration, nor Council should be expected to answer questions without appropriate consideration or investigation.
- Council can not commit the municipality to any course of action in meetings of this type, as deliberation and resolutions cannot occur outside of a regular Council meeting.

- The issues being raised by residents may be related to specific decisions of administration that are operational in nature or are related to existing policies. Council should not be engaged in decision making at this level.

Council also has a portion of each Regular Council Meeting scheduled on the agenda as “Resident’s Concerns” or “Public Input Session”. This portion of the agenda allows any interested party to come forward and express a concern or state a position on any item; generally without limitation.

**1029/14** Moved by K. Westerlund that Administration update the Procedural Bylaw 837-14 to reflect the following:

“An informal Public Input Session shall be permitted at 9:15 am at each Council meeting where the public is allowed to speak without having to make arrangements in advance. This allows a few minutes for a person to bring forward their ideas, comments or suggestions to Council. A total of 30 minutes is allocated at each meeting for any and all persons present to come forward to say a few words. If a presentation will take longer than five minutes, a formal appointment should be booked in advance”.

**IN FAVOUR:** K. Westerlund  
P. Vos  
S. Mahan  
M. Gressler  
M. Thompson

**OPPOSED:** A. Heinrich

**CARRIED**

During this portion of the agenda:

- Residents actively (and sometimes aggressively) criticize Council and/or administration.
- It is not unusual for 10 to 20 residents to present on completely unrelated matters.
- Residents appear to want an immediate response to their concerns, and Council does appear to respond. We observed Councillors committing to courses of action during these sessions without deliberation or resolution.

- The matters brought forward are often operational in nature, and should, therefore, be addressed through administrative channels.
- Council minutes retain a record of the presenter and the issue that was raised. Some minutes contain considerable detail regarding the discussions during these presentations.

Neither Council nor administration should be engaging with the public in this manner. Interested stakeholders should be allowed to bring forward matters to Council. However, this should be done in the form of delegations. Delegations provide notice of their intent to present, and are scheduled in advance. The matter brought forward by the delegation is identified in advance, and administration has the opportunity to be reasonably informed on the matter. In addition, delegations can be vetted to ensure that the matters coming before Council are appropriate to the governing body and are not administrative in nature.

### Minutes of Council

Minutes of Council are identified as one of the major administrative duties for the CAO in section 208 of the *MGA*. An examination was conducted of the County’s minutes from 2014 to the present. Minutes of Council should:

1. Identify agenda items;
2. Provide the exact motions of Council
3. Indicate motions as “Carried” or “Defeated”
4. Be free from comment or quotes

As part of our Inspection we completed a detailed review of Council minutes and identified the following:

- During this Inspection, the County was in transition between an older version of its website and an updated or revised version. The County acknowledged that there are some delays in getting the minutes or agenda packages up, and that there is a need to include links to documents from prior years. A process to address the website and posting of minutes is being undertaken during this Inspection. A review of the 2015 agenda packages and minutes that crossed over the transition of the two websites are provided below.

Meeting	Meeting Type	Agenda Package	Minutes
Jan 6/15	Regular	Yes	Yes
Jan 7/15	Quarterly Report	Yes	Yes
Jan 12/15	Special	Missing	Yes

<b>Meeting</b>	<b>Meeting Type</b>	<b>Agenda Package</b>	<b>Minutes</b>
Jan 16/15	Special	Missing	Yes
Jan 20/15	Regular	Yes, plus additions	Yes
Jan 29/15	Off-Site Levy Training	Missing	Yes
Feb 3/15	Regular	Yes, plus additions	Yes
Feb 4/15	Special	Missing	Yes
Feb 17/15	Regular	Yes	Yes
Feb 27/15	10-year Capital Planning	Yes	Yes
Mar 3/15	Regular	Additions only	Yes
Mar 11/15	Special	Missing	Missing
Mar 17/15	Cancelled Regular	N/A	N/A
Mar 24/15	Special	Yes	Yes
Apr 7/15	Regular	Yes	Yes
Apr 10/15	Special	Missing	Yes
Apr 21/15	Regular	Yes, plus additions	Yes
May 5/15	Regular	Yes	Yes
May 19/15	Regular	Yes, plus additions	Yes
May 25/15	In-house Strategic Meeting	Yes	Yes
Jun 2/15	Regular	Yes	Yes
Jun 16/15	Regular	Yes, plus additions	Yes
Jul 7/15	Regular	Yes, plus additions	Yes
Jul 10/15	LUB	Missing	Yes
Jul 21/15	Regular	Yes	Missing
Jul 22/15	LUB Review	Yes	Missing

We understand that the practice for preparing, reviewing, and posting of minutes includes the review of the minutes by the CAO and posting within a few days of the review. The signed copy of the minutes, once approved by Council, are kept within an internal IT system, along with a hardcopy being kept by the office of the CAO. The redacting of signatures is a common practice within the municipality when posting online to protect the security of those who had signed the documents.

During the writing of this report, the County had updated its website, which generally addressed any earlier website navigation and clear communication difficulties. There was no place on the revised website that noted the special meetings of Council, including dates or packages; minutes of special meetings were placed with the 2015 Council Meeting Minutes. A number of the 2015 minutes were unsigned and/or marked as “draft” at the time of the review.

For the 2014 minutes, the website appeared to have documents posted for each of the meetings. However, it did not appear that there were agenda packages to accompany the minutes. We understand that this is a work in progress. The meeting minutes were also labelled “draft” in a number of cases and were unsigned. In the case of the October 27, 2014 Organizational Meeting minutes, the Reeve and CAO signatures were blacked out on the documents online to protect the security of the signatures and prevent copying of signatures from an online source.

- The *MGA* – section 208, subsection 1(c) – requires that minutes be provided to Councillors by the CAO and adopted at a subsequent council meeting. In 2015, it appears that Brazeau County Council approvals of previous minutes were typically well followed.
- Council motions or resolutions are numbered within the minutes. Council minutes have a tendency to record the decisions of their resolutions by using “carried unanimously”, or when a split vote, “in favour” or “opposed” and noting whether the motion was carried or defeated.

On recording votes, section 185 of the *MGA* indicates the following:

- (1) Before a vote is taken by council, a councillor may request that the vote be recorded.*
- (2) When a vote is recorded, the minutes must show the names of the councillors present and whether each councillor voted for or against the proposal or abstained.*

On occasions where Council has used recorded votes, they are being used appropriately and in a manner consistent with legislation.

- It is noted that the municipality has had a practice of documenting delegations, appointments, or public input (e.g., “ratepayer concerns”) through a relatively text-heavy minute taking approach. In some cases, in 2014 especially, the text appeared almost verbatim or transcript-like around ratepayer concerns. Council did not always make a motion to accept information presented as information, although that would be difficult to do so in its historical practice of allowing for ratepayer concerns (the practices and generally accepted norms around the use of public input or ratepayer concerns is discussed in more detail elsewhere in this report).

Section 208 (1) (a) of the *MGA* states that minutes are to be recorded without note or comment. As a result, where there are reports, delegations, appointments, or public input, these would be advisable to document simply by indicating the agenda item summarizing the issue or item in brief (no report, delegation, or other input would typically be received for information or decision by a council without first having an

agenda item); an indication of whether received for information, or where a decision is required, a motion and a resolution number and noted as carried or defeated.

The use of verbatim note taking on public input or ratepayer concerns seems to have diminished dramatically in 2015 over the practices of Council in 2014; however, the need remains to remove the “summary” notes that are presented in the minutes.

- The 2014 and 2015 minutes employ the use of councillor reports and recording of these in minutes. The reports appear to be related to logging the sessions or committees by Councillors, including travel time or charges.

Although there does not appear to be any violations of any legislation, a better governance practice would be for Councillors to provide their reports verbally or as a written report to Council for information only. The minutes do not require recording of the reports, or tracking of the activities of Councillors.

### **CAO Performance Evaluation**

Council has conducted a formal performance evaluation of the CAO annually; we received copies of the 2013 and 2014 documents. Properly conducted performance reviews serve several key functions:

- Setting measurable and achievable objectives – quarterly and annually – for the CAO to achieve that directly supports the strategic direction of the municipality;
- Monitoring and identifying the measurable ways in which the CAO’s performance contributes to the organization’s goals;
- Monitoring and identifying the ways in which the CAO’s performance needs to improve to meet the organization’s goals, including ways in which council can support the CAO’s efforts;
- Allowing council to review essential job functions with the CAO, and update his/her job description accordingly; and
- Providing documentation of performance that supports salary increases, disciplinary actions, or termination.

Once the strategic direction of the municipality is determined, it follows that the performance objectives of the CAO will directly support and enhance the opportunities of successful implementation of that plan. In order to assist with this, a general guideline would be for reviewers to focus roughly 40 percent of the observations and comments on past work and 60 percent of the observations and comments on what needs to be done moving forward, including setting objectives and goals. Any development plans, actions, objectives, or goals that the CAO needs to take to become successful and to ensure that the municipality is successful need to be

within his/her control, and should ideally focus on both the “what” and the “how” when these objectives are achieved. As in all performance appraisals, the feedback and monitoring of success is often perceived as more relevant when there are timely discussions, at least once per quarter, with at least one session set aside for determining the objectives for the new performance / fiscal cycle and one session set aside for a formal wrap up of the annual objectives.

At a minimum, performance should be reviewed annually. This is further supported by the requirements set out in Section 205 of the *MGA*, which outlines the need for a CAO performance appraisal as follows:

***Part 6, Section 205.1– Performance Evaluation***

*A council must provide the chief administrative officer with an annual written performance evaluation of the results the chief administrative officer has achieved with respect to fulfilling the chief administrative officer’s responsibilities under section 207.*

However, as the feedback from council to the CAO should be timely and never be a surprise, it is recommended that the Reeve, after conferring with Council, provide quarterly feedback to the CAO on behalf of Council. Additionally, if there are any performance concerns or recognitions, these should be addressed by Council at the time that they occur.

As part of our Inspection we reviewed the performance appraisals provided by the CAO and have identified the following:

- The performance period and the details regarding the CAO’s hire date, current salary level, and reviewer (Council) are included on the document.
- The CAO’s job description is incorporated into the document, including the primary and general accountabilities, and key performance measures. The latter is stated in a more general manner, without any quantifiable outcomes. The technical and behavioural competencies are also identified in the document. There is room after each section for reviewer comments. Employee comments are provided for at the end of the document, along with future goals, and the employee acknowledgement regarding the discussion with council (“manager”).
- In the earlier document, it provided for the “measures or steps which should be taken by the CAO over the course of the next appraisal period to maintain and/or improve his performance”, additional comments, and the approved salary increase opportunity, if one is granted by Council based on performance. The document notes the date the salary increase (if applicable) is effective and the date for which this appraisal was approved by Council. The appraisal document page that collects all of this information is what is provided to the employee’s file, payroll, and a copy for the employee. In the most recent

document, these elements are not present. However, there is an attachment with the key objectives, whether achieved, and the “measurable/results”. Some of the measures or results are specific, while others remain less so. No specific timeframes are attached to these measures or results.

- For both appraisal examples provided, the comments tend to be qualitative and general. Council and the CAO may benefit from more specific and concrete feedback.
- This could be accomplished through a number of methods, including: a 360 degree feedback tool; specific goals and objectives with quantifiable and distinct measures; reporting tools that capture a combination of lagging indicators (indicators that have results that have already taken place and cannot be influenced) and leading indicators (measures that are within the control of the CAO and are more predictive or future oriented).

The use of 360 degree feedback that gathers input from all of Council, and possibility from the senior management direct reports to the CAO, on specific measures and questions. It would be important to disconnect this from any compensation or contract continuation discussions. The value in a 360 degree feedback tool is to provide coaching, guidance, and development feedback from a range of individuals on specific measures and questions. Such an undertaking could be done annually or every two years, with the intention of developing action plans that address any performance improvement or development areas. If a 360 degree review were completed every two years, a standard Council performance review process would still occur in alternating years to ensure the requirements of the *MGA* are being met.

The use of specific goals and objectives with quantifiable and distinct measures that are communicated and agreed to at the start of the year will help with specificity. The results and outcomes of these measures would be reported on between Council and the CAO on a regular basis and captured in the annual performance appraisal.

Ultimately, Council needs to be concerned with the performance of the CAO in the following areas:

- Whether the strategic plan has been achieved or not;
- Whether the municipality is operating within the approved budget or not;
- Whether the municipality is operating within the approved policy framework or not; and
- Whether the municipality is meeting the agreed on service levels within its operations or not.

The suggested tools above are some means to which Council can confirm if these are accomplished in a manner that is acceptable to Council and the municipality.

## **Pecuniary Interest and Conflict of Interest**

Section 170(1) of the *MGA* states that a Councillor has pecuniary interest if:

- (a) the matter could monetarily affect the councillor or an employer of the councillor, or
- (b) the councillor knows or should know that the matter could monetarily affect the councillor's family.

Section 172(1) in the *MGA* in relation to disclosure of pecuniary interest states:

When a councillor has a pecuniary interest in a matter before the council, a council committee or any other body to which the councillor is appointed as a representative of the council, the councillor must, if present,

- (a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,
- (b) abstain from voting on any question relating to the matter,
- (c) subject to subsection (3), abstain from any discussion of the matter, and
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.

During the Inspection process, we identified a number of cases where Councillors appeared to violate Section 172 of the *MGA*.

### **Councillor Defamation**

During past Councillor Monteith's time on Brazeau County Council, she authored a regular column that was published in the Breton Booster newspaper, "The Councillor Connection". The content of the columns had been a cause for concern within the County. In general, Councillor Monteith wrote articles to keep ratepayers informed on Council activities. Themes included financial contributions made by the County, budget, conference or course attendance by Councillors, requests for inter-municipal cooperation with the Town of Drayton Valley, committee composition and process, and commentary on Council and County decisions.

In 2011, Council requested through discussion and motions that she discontinue the article, and eventually that all publications be circulated to the Reeve and the CAO prior to being written for approval of context accuracy; both the Councillor and Council eventually sought a legal opinion on this. The motion of Council that referred to the need to circulate publications for approval was rescinded on March 8, 2011.

One comment made on February 22, 2012 regarding Councillor Westerlund bringing her infant to Council meetings became a focal point of contention within the County and in media outside of the County. The comment and subsequent commentary by others made its way through media – both traditional and online. We will not comment in this Inspection on the appropriateness of the commentary made by any involved in this process. We do note that this was a disruptive and divisive issue for Council and the County.

On May 01, 2012, Council voted on motion 273/12 which read:

*Moved by R. Kitching to approve litigation financial support for councillor defamation of character lawsuit.*

Three councillors voted in favour of the motion (Kitching, Mahan, and Konelsky), and three voted against (Tweedle, Monteith and Heinrich). As a result, the motion was defeated. The minutes do not record any Councillor declaring a pecuniary interest, however Councillor Westerlund was not present.

If a councillor who believes he or she has been defamed wishes to do more than have a demand letter issued requesting an apology, they should retain their own legal counsel. Individuals who serve as councillors or are employed by the municipality can be defamed, but if there is a legal action commenced regarding that defamation, the action would be to seek damages for the individual, not the municipality.

It is reasonable to say that Councillor Monteith had a financial interest in a potential defamation lawsuit against her, and therefore had a duty to declare pecuniary interest and act in accordance with Section 172 of the *MGA*. A second Councillor also felt that comments written about them were defamatory, and would also have sought to use municipal funds for the lawsuit, as described in council motion 273/12. In this case, the councillor potentially making use of municipal funds also voted on the motion. This would also be a violation of Section 172, and potentially cause for dismissal. It is noted that the motion does not actually name the councillors involved in a potential lawsuit.

## **Guest Ranch**

On February 25th, 2013, Brazeau County received a legal opinion regarding pecuniary interest for a member of Council. During a line-by-line review of the County's Land Use Bylaw, Council was considering proposed revisions to the definition of "guest ranch". The proposed amendment included the wording "A guest ranch shall not accommodate more than ten guests at any one time". One of the Councillors had previously been

issued a development permit for a guest ranch by the County. The existing definition of guest ranch did not include any limitation on the number of guests that could be accommodated. The Councillor with the development permit participated in the discussion of the proposed revision to the Land Use Bylaw, and made a specific comment regarding the revision. Another Councillor made a motion to remove the limitation on the number of guests, and the councillor with the existing development permit voted on the motion. The motion to remove the wording was carried, directing administration to revise the proposed amendment. In the event the Land Use Bylaw had been amended, the Councillor's use of his/her guest ranch could have become a non-conforming use. It is possible that a court could determine that the potential for a non-conforming use qualifies as a pecuniary interest under the *MGA*. This appears to have been an error in judgement on behalf of the Councillor. It is unclear if a financial benefit was ever actually realized as a result of the decision. The legal opinion on this matter discussed the potential for pecuniary interest to exist and the applicable sections of the *MGA*, but did not make specific recommendations for a course of action for the County to follow.

### **Professional Development**

An issue arose with Council Policy – 5: Conference/Meetings/Courses/Social Functions Policy. Under policy, council allocates \$1,000 per councillor annually for the purposes defined in the policy, including professional development. On May 5th, 2015, two Councillor's requested to exceed their \$1,000 allotment. Motion 525/15 read:

*Moved by R. Moir to approve the overage of \$228.50 for education courses and for the cost of the EOEP governance and finance courses in October for Councillors R. Moir and M. Gressler.*

As the \$228.50 is an overage, meaning it exceeded the \$1,000 allowance under policy, it may be considered a pecuniary interest. In this case, a councillor receiving the pecuniary interest did move the motion, and both Councillors receiving the benefit voted on the motion, which was carried unanimously. It is noted that the CAO was not present in Council on May 5<sup>th</sup> to advise Council on this matter.

Upon the CAO's return, Council had an in-camera discussion of this matter, which included advice from the County's legal Council. It was acknowledged at this time that the Councillors acted in contravention of the *MGA*, and that the contravention was an error by the Councillors. Council discussed the matter, and chose not to proceed with further action.

## **Tuxedo Rental**

During our interviews, some interviewees expressed concern that the County has paid for the rental of a tuxedo for Councillor Gressler to attend the annual Rotary Club Ladies Black & White Diamond Gala. We understand that the County participates annually at this charity event.

On March 28, 2014, the County received a legal opinion regarding the issue of a Councillor voting on the motion for a tuxedo rental at a cost of \$250. A review of minutes prior to 2014 shows that the Councillor was voting on his attendance at the event, and for reimbursement of his associated expenses.

In the December 16, 2014 regular council meeting the minutes read as follows:

*Councillor M. Gressler declared a pecuniary interest under Section 172 (1)(d) and left the room at 1:05 pm.*

*1753/14 Moved by M. Thompson to approve Councillor M. Gressler's attendance at the Rotary Club of Drayton Valley Ladies Black & White Diamond Gala and to approve all costs associated with his attendance at the function.*

*CARRIED UNANIMOUSLY*

*Councillor M. Gressler returned to the meeting at 1:07 pm.*

It appears that prior to 2014, Councillor Gressler was in violation of section 170(1) as it relates to pecuniary interest. However, based on the December 16, 2014 minutes, it appears that the County took into consideration and applied previously gained legal advice and this issue has been adequately addressed.

In each of the preceding cases, there appears to have been a verifiable contravention of the *MGA*. In each case, the matter is either:

- Related to a previous term of Council;
- Related to an individual no longer on Council;
- Reasonably considered to be a genuine mistake arising from a lack of knowledge or due consideration; or
- Has been appropriately addressed by Council.

During the Inspection, some concerns were raised which, upon investigation, the Inspector believes are without foundation. These include:

- Accusations regarding businesses in town – some Councillors own business within the Town of Drayton Valley. Some interviewees expressed the view that the Councillors voting to provide funding to the Town for various projects should constitute pecuniary interest. This accusation is without foundation. The business involved are unrelated to any County funding decisions, and could not reasonably be considered to have a greater than normal benefit from any County Council decision.
- Shared business interests – a Councillor has business interest with a business owner engaged in development within the County. In this case, the business interests of the Councillor are unrelated to the development activities of the business partner, which are conducted through a separate business entity. There is, therefore, no pecuniary interest that would meet the definition under the *MGA*.
- Campaign contributions – a Councillor may have received campaign donations from individuals or organizations with business interest in the County or in the Town of Drayton Valley. Campaign contributions do not constitute a source of pecuniary interest. In addition, we can find no indication of preferential behavior associated with those providing campaign contributions.

The Section 147 of the Local Authorities Election Act requires a candidate to file with the municipality a campaign disclosure statement. This statement includes the total funds contributed to a candidate's campaign by each individual or legal entity contributing over \$100, along with each contributor's legal name and address. However, any money up to and including \$10 000 paid by a candidate out of the candidate's own funds for the purposes of the candidate's election campaign is not considered a campaign contribution. And, if a candidate's entire election campaign is funded exclusively out of the candidate's own funds, the candidate is not required to file a disclosure statement with the municipality.

We have received copies of the candidate disclosure forms filed with the County. Not all candidates filed disclosure forms. However, it is not within the scope of the Inspection to audit campaigns of each candidate to determine if all candidates followed the requirements of the *Act* with respect to disclosure, nor is it a responsibility of the County to audit the candidates. There is no evidence provided through the process of the Inspection that any candidate failed to comply with the *Local Authorities Election Act*.

### **Committees and Committee Appointments**

Some interviewees expressed the concern that Council had too many committees. Councils have discretion to create committees to serve specific purposes for Council, or to appoint Councillors to boards or committees created by other entities. Councillors may sit on boards, committees or

commissions as a designated representative of Council. Our review of Brazeau County's appointments reveals the following:

- Some bodies to which Council has appointed Councillors lack a clear terms of reference to guide committee operations.
- Council has made an effort to equalize workload between Councillors by identifying the anticipated number of meetings for each committee, and assigning Councillors to committees with relatively equal time commitments.
- Some Councillors are upset because they did not get a committee or board appointment that they coveted. In addition, some residents and Council members expressed concern that Councillors were not assigned to committees that best met their perceived skill set. While Councillors should be given the opportunity to request specific board or committee appointments in areas of interest, there is no obligation to appoint Councillors on that basis. In addition, Councillors are not expected to have a specific skill set or knowledge base prior to an appointment. The Inspector's review of the appointment process did not identify it as a significant issue
- Brazeau County currently appoints members of Council to 30 Boards or Committees. This would not be considered abnormally high. They represent a range of functions, including operational boards, advisory boards, standing committees, and engagement committees. There is no specific limitation to the number of Board of Committees that would be deemed "appropriate" for council. Our review of the County's committees did not identify any specific abnormalities or recommendations for alterations.

One concern that was identified is the manner in which Council has budgeted for Committees. As Council has identified an anticipated number of meetings for each Committee, the budget reflects a specific budget allocation for per diems and expenses for each Councillor to attend those committee meetings. This means that a Councillor who exceeded that budgeted allocation would have to come before Council to request an increase in budget, and further, that the Councillor would have to declare a pecuniary interest when the matter came before Council. A Councillor attending committee meetings is doing the work of Council on behalf of the municipality. They should not be subject to the perception that they are financially benefitting from this work. A preferred system would be for Council to allocate a single budget amount for "Council Committees" that would apply to Council as a collective body. If Council, as a collective body, exceeds that budgeted allotment, the Council can vote to increase it with no individual Councillor having a specific pecuniary interest.

### **Code of Conduct**

A Code of Conduct should exist as a guiding document for any governance body. A municipal Code of Conduct should set expected standards of conduct for all Councillors. The document should be reviewed regularly, and affirmed by each new Council once elected. While there is a

wide variety of content that can be included in a code of conduct, some standard content includes:

- Acceptable behavioral norms relating to inter-personal conduct;
- Guidelines for acceptance of gifts;
- Separation of roles and responsibilities;
- A commitment to confidentiality and the avoidance of conflict of interest or bias;
- Acceptable guidelines for communication with stakeholders; and
- A commitment to avoid any form of discrimination.

While Council does not have a Code of Conduct in effect, there is a Council/CAO Covenant that was signed on October 21st, 2014. This document is brief, but covers much of the same content as a Code of Conduct. Council has also established policy Council – 6: Councillor Code of Ethics Policy. This policy covers matters of Councillor behavior and pecuniary interest. Together, the covenant and the Code of Ethics Policy address most matters that would be addressed under a Code of Conduct. Council would benefit from the consolidation of this information into a single guiding document that could be referred to more easily.

### **Council Bylaws**

All bylaws of a municipality must be properly written, recorded, passed, and indexed. Ensuring the integrity of a municipality's bylaws is a key responsibility of the CAO, as is informing Council of their responsibilities under the *MGA* as they relate to the passing of bylaws. Municipalities are expected to maintain a bylaw register containing each current bylaw. During this Inspection a review was conducted of all bylaws and recent Council minutes to examine the passing and maintenance of bylaws for Brazeau County. We identified the following

- Bylaws are properly written, recorded, passed, indexed and available to the public on the County's website;
- The different readings of bylaws have been observed. Section 187 of the *Municipal Government Act* requires that all bylaws have three readings and states that a proposed bylaw must not have more than two readings at a Council meeting unless the Councillors present unanimously agree. The intention of separating readings across Council meetings is to allow for sober thought and public input. In some instances, three readings of a bylaw occurred in one Council meeting and Council followed the appropriate procedures for passing a bylaw in three readings.
- New bylaws or updated bylaws include a section indicating that the previous bylaw has been repealed and the date of each reading is included.

- Bylaw readings are appropriately recorded in the minutes of the County,

### Land Use Bylaw

Councillors and members of administration identified that one of the biggest issues for the County is the current Land Use Bylaw (LUB). The current bylaw was passed in 2012, and is described as being: a) not user-friendly, b) not resident-friendly, and c) relying too much on a model appropriate to a large urban municipality. Councillors who participated in the 2012 LUB amendments stated that they had not given adequate attention to the revisions, and were unaware of the scope of the changes that occurred. This demonstrates a governance failure. The County is now in the process of a full-scale review and revision of the LUB; a process which would not be necessary if the County had engaged in a reasonable process three years ago.

Of specific concern to residents is that the County is actively enforcing the current LUB which is in force. Council has publically acknowledged deficiencies in some areas, but administration continues to act under the existing bylaw; which they are required to do. This has created a major issue with public perception. For example, the current LUB places a restriction on the number of dogs allowed on a property. Residents have been ticketed for exceeding this number and have come before Council. Councillors have confirmed their intent to alter this section of the LUB; which creates the perception that the tickets are not in force. However, the tickets remain in force as the County's administration continues to act under the existing bylaw.

In response to the identified deficiencies in the LUB, Brazeau County has done the following:

- Formed a steering committee to make recommendations on bylaw changes. This committee is engaged in a detailed review of the LUB.
- Engaged in public consultation.
- Completed a review of the document by administration which has identified deficiencies and made recommendations for revisions.
- Produced a consolidated document with recommended revisions. This document is extensive, with over 100 recommended changes.
- Engaged qualified consulting support to support the bylaw revision process.

Our review of the County's current process for amending its LUB shows it to be comprehensive and appropriate. While the process in 2012 was flawed, any recommendations to address current deficiencies have been captured by the current process.

The Inspector does note the following:

- Some Councillors and members of the public have expressed concerns with the LUB being too "urban" with respect to requirements for setbacks, geotechnical and

hydrological studies; or considerations of unsafe or unsightly properties. All municipalities have an obligation to ensure that land use standards support well planned, safe and sustainable development. Leading practices that meet defensive standards for safety and liability protection should not be sacrificed based on the history or nature of the community.

- Out of necessity, the current process is not occurring in the correct order. The usual process would be to review the Municipal Development Plan (MDP), then to amend the LUB in support. The County will be reviewing the MDP following the LUB, which may result in further amendments to the LUB.
- The County's Inter-Municipal Development Plans require updates, as their maps are outdated following annexations.

**It is recommended that:**

2. Council adopt a decision making process that considers required information, sources of information, and sources of stakeholder input to the decision, prior to engaging in deliberation or voting. If information is outstanding, decisions should be tabled for a later meeting of Council.
3. Council develop and adopt a Code of Conduct that is reviewed regularly, and affirmed by Council following each election or by-election.
4. Council receives supplemental training in matters of confidentiality and pecuniary interest.
5. Council discontinue Divisional Meetings
6. Council discontinue “Public Input Sessions” during Council meetings and that public participation in Council meetings be limited to delegations.
7. The County complete the process of updating the website to include all agendas, Council packages, and Council minutes.
8. Council discontinue the use of “Carried Unanimously”, using only Carried and Defeated with respect to Council motions. The exception to this is cases where unanimous votes are required by the *MGA*.
9. The County eliminate the use of descriptive text in minutes. Minutes should be restricted to identifying agenda items and resolutions of Council.
10. Council and the CAO participate in a review of the CAO performance appraisal format to ensure that assessments are objective, forward looking, and reflect the priorities of Council.
11. Council revise the format of budgeting for committees to provide for a lump sum budget item for all of Council.
12. Council and administration complete the current process for amending the Land Use Bylaw and Municipal Development Plan.

## HR Practices

The following sections outline the findings that relate to administration's HR practices.

### Employee Files

As a matter of proper administrative procedure municipalities are required to maintain private and confidential employment records that contain human resources and payroll information related to an individual employee of the municipality. Files should conform to *Alberta's Employment Standards Code*, and would typically contain information that directly relates to that specific employee and concerns their employment relationship with the municipality, including, but not limited to:

- The employee's job description;
- The employee's signed employment contract or letter of offer and relevant correspondence related to the employment or terms and conditions of employment for the employee;
- Copies of performance reviews and performance expectations for the employee's career with the employer;
- Documented disciplinary actions or commendations for the employee's career with the employer; and
- Payroll, tax, and benefit and pension information related to the employee.

The employee files are kept in the office of the HR Coordinator, who is the primary HR position in the municipality. These files are locked with limited access by others in the organization. The files are better maintained for newer employees, and the separation of payroll files from the human resources or personnel files has been in place for roughly 5 years. The payroll files are locked and kept within payroll. The interview notes and reference documentation undertaken during recruitment activities are maintained in separate files and not linked to an employee file. The municipality appears to be in compliance with its recent employee file practices.

### Performance Reviews

It is a key responsibility of the CAO and senior management to conduct performance reviews on all municipal employees. At its heart, a well-designed performance review can serve both organizational and employee development outcomes. For instance, a performance review can accomplish:

- Setting measurable and achievable objectives for an employee that align and support the strategic direction, values, and goals of the municipality;

- Monitoring and identifying the measurable ways in which the employee’s performance contributes to the municipality’s goals;
- Monitoring and identifying the ways in which the employee’s performance needs to improve to meet the municipality’s goals, including ways in which the CAO and senior management can support the employee’s efforts;
- Allowing the CAO and senior management to review essential job functions with the employee, and update her/his job description accordingly;
- Providing feedback to an employee of her/his performance on their objectives, including areas of strength and areas of improvement;
- Driving performance improvement and performance development planning with the employee, including accountability of improvement and development;
- Establishing and strengthening a performance coaching relationship between the employee and the employer; and
- Providing documentation of performance that supports salary increases, disciplinary actions, or termination.

Ideally, a performance review should be more focused on the future development of the employee, with less of a focus on what was done in the past. A performance review is one way to determine the performance development plans or actions that will assist and support an employee in becoming more successful in their role. The questions asked and the plans created need to focus on those things that are within the employee’s control, as well as the “what” (specific tasks or actions or projects) and the “how” (behaviours used to achieve and/or quality of work performed). With a forward-thinking process, the review moves from a “one-time per year” event to multiple events throughout the year, including gathering and monitoring documents or reports and measures to confirm the achievement of performance expectations.

A well-understood aspect of the more successful performance management and evaluation process is that the feedback and monitoring success is perceived as more relevant when there are timely discussions. To align performance of the individual with the municipality, the performance process needs to incorporate the following: planning the work/objectives; discussing the outcomes and any adjustments; evaluating the outcomes and behaviours; and adjusting any outcomes, work, objectives, behaviours, or technical skills on the part of the individual and the municipality. The individual being reviewed and the manager of that employee should never be in a situation where either side is surprised by the outcomes of the review. Ideally, the formal discussion sessions would occur, at a minimum, once per quarter, with at least one session set aside for performance planning and determining the objectives for the new performance/fiscal cycle, and one session set aside for a formal wrap up and evaluation of the annual objectives.

The current process, as explained to us by the HR staff, used by Brazeau County includes the following:

- On a monthly basis, HR goes through the list of employees to determine who is due for annual review or for a probationary review. Reviews are conducted annually on the anniversary of an employee's hire date, unless the employee has moved to a different job and/or different department, which would then provide a new reference point for annual reviews going forward.
- The review is primarily comment-based only. Use of a numeric performance ranking is not undertaken within the municipality, as the municipality has found that unless there is a comment to justify the use of performance ranking, it does not hold credibility within the organization or with their bargaining unit. Additionally, using a comment system forces manager to make an honest comment and allows for ongoing issues tracking.
- Once completed, the evaluations are sent to HR in a sealed envelope. They are placed in the employee files. The evaluations remain unopened by HR and can only be opened by the employee or the employee's manager. HR can open the performance appraisal only if requested by the employee or the employee's supervisor. If there is a pay adjustment attached to the performance appraisal, this would be included on the outside of the sealed envelope. No explanation was provided to HR as to why this process was accepted practice within the municipality.

It is a generally accepted practice to conduct annual performance reviews and the municipality's practice meets this standard. While it is acceptable to conduct these reviews during a work anniversary, organizations often look to harmonizing these to a consistent anniversary for all employees. Doing so allows for streamlining the communication, performance and payroll administration. There is no harm in Brazeau County continuing its work anniversary practice; however, it may wish to consider adjusting this over time to have a consistent organization-wide anniversary date.

Reviewing a sample performance appraisal provided to us, we noted that the performance appraisal provides:

- The performance period and the details regarding the employee (e.g., hire date, current pay grid level, and reporting department/manager).
- A summary of the job description.
- Comments from the "reviewer" (manager) throughout the document after each section of the job description.
- An area for the employee to acknowledge the discussion with their manager and add additional comments if they wish.

- The opportunity for a self-appraisal by the employee to be completed prior to the evaluation with their manager, and then discussed with their manager at the evaluation.

The document provided no opportunity to include the goals and objectives for the department or the position, and no real mention of any agreed on courses, training, or development assignments to be undertaken by the employee, nor the follow up as a result of undertaking these activities.

By sealing the performance appraisals and not allowing HR to access the documentation, unless requested, it ties the hands of the HR staff when it comes to providing assistance to managers or employees on potential performance concerns. Any advice, guidance, coaching, or assistance that HR provides would often be when the situation has become more sensitive or the conflict has reached a point where meaningful employee relations or performance correction may be virtually impossible. As a profession, human resources is regularly exposed to confidential and sensitive employee, employment, and labour relations matters. It is essential that a human resources professional be in a position to facilitate and/or intervene in matters impacting people management, performance, compensation, training, and succession planning in an unimpeded manner, respecting legislative and professional requirements. Further, the municipality's practice of allowing the compensation adjustments to be seen on the outside of the envelope, while understandable as the pay adjustments need to be acted on within the payroll system, should be considered no less "confidential" than the actual performance comments provided on the sealed appraisal.

### **Personnel/Human Resources Policy**

At a high level, human resources or personnel policies are the documented decision making and/or guiding principles documents used to address the general working conditions, environment, and rights of the employees of an organization. The policies need to be written clearly and are intended to provide clarity and transparency for all employees impacted, along with a framework for consistent decision making. Further, well written policies address the legal requirements that an organization must comply with under provincial or federal employment and privacy regulations.

Policies should be recommended by the CAO and senior management to Council, who would approve the documents when satisfactorily addressing legislation and organizational needs. Once the policies are approved, the documents should be easily accessible by all employees, preferably through an intranet site, but also followed up by a hard copy "handbook" and employee information sessions. Ideally, once the policies have been approved, they should be reviewed at least every 3 to 5 years to ensure that they remain relevant and in compliance with any legislative changes.

Generally, policy documents have the following sections or information:

- Policy name;
- Policy number;
- Effective date of the policy;
- Whether the policy supersedes another policy (indicated by policy number);
- Position that is accountable for the policy outcomes;
- Approver of the policy;
- Overview of the policy, which can contain a summary of the policy, along with the philosophy or key considerations for the organization respecting the policy;
- Purpose of the policy, which is the main reason(s) or intention(s) that the policy is authorized;
- Policy content or body, which will contain the various and specific information related to the policy, including those who the policy applies to; and
- Policy definitions that may not be clear in the policy content or body and/or need to have specific attention drawn to.

We understand that the personnel policy and procedures documents were reviewed and revised in 2014, with direct input by human resources and the directors; Council reviewed and approved the policies. It was also noted that the municipality is making an effort to separate the procedures from the policy documents. Brazeau County is also covered by a collective agreement for some of its workforce; the collective agreement provisions govern the employment relationship with the County.

During our review of this policy, we noted the following:

- The policy document covers the general working conditions, environment, and rights of the employees of an organization, including, as examples, recruitment, orientation, probationary period, performance, personnel records, hours of work, overtime, benefits, leaves, code of conduct, and internet use. There are general definitions provided at the beginning of the document. The policy appears as one master document, with each of the sections provided under the primary policy. This may make the revision of this policy cumbersome and it may be worthwhile for the municipality to create separate policy documents for each of the sections provided for in the master policy.
- The policy document could benefit from providing a policy section overview prior to providing the content or specific information. Doing so would allow the municipality to address or emphasize critical information that may be awkward to do so within the body of the policy.

- The policy includes the signature of the CAO, the date of the original approval by Council, and the revision or review dates. It would appear that the review/revision dates are assumed as new approval dates by Council, although it would be advisable to note the new approval date by Council and what policy number is superseded by the revisions.
- Generally, the policy does an effective job of indicating the responsible and accountable positions under each section of the master policy.
- Within the overtime policy, it is required that an overtime agreement is in place between the employer and either a single or group of employees prior to engaging in the use of time off in lieu of overtime payments. This appears to be missing from the municipality's policy and should be looked into to be corrected.
- The policy does not indicate who is responsible for maintaining it.

We were also provided with copies of the following policy documents: Social Media; Use of County Vehicles by Employees; Staff Subsistence and Travel Allowances; Employee Long Service Awards; Simplified Statement of Investment Policies, Procedures, and Goals for Brazeau County; Employee Identification Card; Payroll Direct Deposit; Workplace Harassment; and Inclement Weather. We noted the following when reviewing these documents:

- As these impact the general employment conditions of employees of the municipality, there may be merit in considering them collectively with the personnel policy grouping (keeping each policy separate). They do not all need to fall under human resources accountability; however, from an employee's perspective, they are collectively critical to the employee from their first day to last day of employment with the municipality. Incorporating these into an employee handbook may be useful to the municipality.
- The policies included a policy statement, policy body content, revision/review dates, and CAO signature. These policies are also missing the Council approval date after the revision date and the context of which policy number the policy supersedes.
- The policies do not indicate who is responsible for maintaining them.
- As a general recommendation, there is merit in the municipality ensuring that all policies, whether related to human resources/personnel, administrative, or other policies such as finance, maintain a consistent look and language.
- The Workplace Harassment policy (PER-11) would benefit from the addition of language preventing and addressing workplace bullying.
- The policies were reviewed and/or revised over the course of 2014 and 2015.

During the Inspection, it was brought to our attention that there were inconsistencies in applying policies across the municipality. Where policies are in place, it is the responsibility of all managers and employees to ensure that they are administering decisions in a consistent, fair, and

transparent manner that is in accordance with the policy direction that has been approved. Having the responsibilities and accountabilities written into a policy document is the first step in better ensuring that everyone employed by the municipality understands the requirements. Putting in place processes, procedures, or criteria also facilitate the likelihood of consistently applying the policy direction. However, it remains the responsibility and accountability of the senior management team and the CAO to monitor and ensure consistent application of any policy. Where discretion is allowed within a municipality, managers, the senior management team, and the CAO need to have a consistent understanding of where the discretionary boundaries lie, including that employees may perceive the discretion to be unfair and inconsistent. Where discretion does not exist in a policy direction, all employees, managers, senior management, and the CAO are accountable to ensure that the policy is carried out as it was approved. Failure to do so should be seen as a performance management issue that is addressed through either progressive discipline or termination, depending on the severity of the infraction.

### **Understanding Attraction, Engagement, and Retention Issues**

Attraction and retention, along with engagement of employees are all critical to the overall brand and healthy relationship that employers have with prospective employees (applicants, candidates), current employees, and past employees.

For the group of current employees working in an organization, it is critical to remember that taking this group for granted in the retention and engagement aspects can quickly turn them into disgruntled past employees, or even worse, disgruntled current employees. In the former case, they move off and potentially cause harm to your overall employment brand. In the latter case, they stay and “quit”, incurring time, attention, and other resource costs that could be better spent elsewhere. As employees move into a past working relationship with an organization, the experiences that they have with the prior employer will set the tone for the types of discussions and points of view that are raised with their network of individuals when considering referring others to the organization (for employment or goods/services). It is critical that an employer understand why employees exit their employment (where it is voluntary). This information can provide insight to trouble areas that require attention, as well as highlight the areas that are working for the organization. These interviews can be conducted by someone within the organization (often Human Resources) or can be contracted to an external service provider, and are often conducted shortly after an employee has left the organization.

Brazeau County currently does not, and in fact communicated to its HR staff that they cannot, conduct exit interviews. We would recommend that this practice be amended to allow for the undertaking of both exit, and more proactively, stay interviews. It is important for the municipality to find out why employees are staying and why they are leaving. Fear of the responses or of disturbing or bringing to light an underlying problem will not make any of those

real or potential problems disappear. The more informed the employer is, the better equipped they are to address the problems, and hopefully avoid them in the first place.

Similarly to “stay” interviews, organizations that undertake staff surveys – satisfaction or engagement – and, more importantly, act on the information that is uncovered, will have a greater opportunity to capture the respect and discretionary effort of employees within the organization. The term “engagement” is often used in organizations, and refers to the process in which an employer has fully captured an employee’s enthusiasm and discretionary efforts in the day-to-day work being performed, as well as their motivation and interest in the longer term success of the organization. Engaged employees, among other things, understand what they are responsible for doing, feel they have control over what they do, have the resources to do what is expected of them, feel respected, feel valued, and generally enjoy working for the company.

Brazeau County currently does not undertake staff engagement or satisfaction surveys. When asked why, human resources was unable to provide a rationale, other than to indicate that it was a topic that was brought up in the past, along with a survey tool that was developed for use internally, but was followed by instructions to not undertake any further action on the process.

### **Placement of and Role of HR within the Municipality**

The HR Coordinator has recently moved to report directly to the CAO. Prior to this year, it reported to the Director, Corporate Services (payroll is separated from human resources). The role functions as an HR administrative generalist, offering human resources services and support to the organization regarding recruitment, employee wage and salary compensation, progressive discipline, employee file management (HR), training of and/or coordination of external trainers for the directors and managers in people/HR related matters, and employee and labour relations.

As a general guideline, a direct human resources representation is more effective when reporting directly to the CAO within a municipality. In doing so, the municipality signals the strategic importance of the human resources and employee relations function within the organization. Additionally, as HR should provide assistance to managers or employees on confidential employee matters, such as performance management, employee/labour relations, compensation, and recruitment, the HR function should be in a position to advise the entire organization in a meaningful way without any hierarchical or political or organizational impediments that would prevent it from facilitating and/or intervening in matters impacting people management, performance, compensation, training, and succession planning. Reporting directly to the CAO typically increases the visibility of the importance of the role/function and decreases the opportunity for blockages or end runs that may hide or frustrate employee or manager concerns. However, it remains important that the role/function is allowed to provide advise and to act and follow through on any necessary measures with full support of the CAO, senior management team, and policy, as long as there are no violations of legislation or professional standards/ethics.

## Staffing Levels

During interviews, concerns were raised with staffing levels at the County. Specifically, it was felt that the County had recently significantly increased staffing levels, and associated personnel costs.

A municipal service capacity review for Brazeau County was recently undertaken by a third party which resulted in a number of recommendations for the municipality. We heard concerns or perceptions from some interviewed during this Inspection process that members of the public and County staff were dissatisfied with the process, did not feel heard, and were unclear why a number of organizational changes were undertaken, specifically an increase in the number of staff within the County. The report recommended an addition of 9 new positions that would increase the budget and staff count. The County undertook a recruitment campaign that filled a total of 14 roles, with the difference being positions that needed to be filled due to recent or upcoming natural attrition.

The recommendations that related to organizational or staffing changes indicated the need to hire the following positions: (1) a Director of Planning and Development, (2) a Planning and Development Officer (1-year term position), (3) a Planning and Development Customer Service Representative, (4) a Development Education Officer, (5) a Parks and Recreation Coordinator, (6) a Legislative Services Coordinator combined with a Records Management Coordinator, (7) a Communications Coordinator, (8) an Economic Development Coordinator, and (9) a Municipal and Community Grants Coordinator. There were also a number of recommendations that restructured departments or roles. These recommendations appear to have been aimed at addressing concerns raised, some of which included: short staffing, lack of expertise in planning and development; improvement of internal/external communication; and addressing “silos” and other organizational challenges within the organization.

In general, it is an acceptable practice for an organization to consider getting external support when determining organizational changes to support service levels (current or adjusted). Organizations may or may not implement those third party recommendations based on the organizational realities at the time of implementation. Council’s carried resolution 838/14 from the July 2, 2014 meeting indicated the following:

*“Moved by S. Mahan to approve ZAP Consulting’s Service Capacity Review Organizational Recommendations.”*

We understand that at some point during the process, there was a perception by some that a few roles may not be required, and subsequently, may have evolved in a manner that was not originally anticipated. During any organizational restructuring, there is always the opportunity for some roles to be contested and/or to be misaligned with expectations. It is the responsibility and the accountability of those within senior management, human resources, and the CAO to

discuss the outcomes, to ensure that there is understanding and acceptance of the changes, and to ensure that the roles that are filled are filled with qualified individuals who understand what is expected of them and execute those responsibilities and expectations as intended. Where there are problems in this execution, we would recommend that the municipality address these through performance discussions, training and development, restatement and realignment of expectations, or where roles are truly not required, to seek other human resources or legal advice regarding the obligations as an employer.

In addition to the organizational structure, we understand that the position descriptions are maintained and up to date, as the municipality undertakes a review and/or revisions when an evaluation request is made or when employees leave or are recruited into the municipality. The county's practices are generally in line with accepted administrative norms.

As a component of the Inspection, the Inspector did assess the overall size and capacity of administration along with the division of responsibilities amongst the senior administration. The Inspector determined that:

- The design of the County's administration and division of responsibility between organizational units is consistent with other counties of comparable size and complexity.
- The overall size of the County's administration with respect to the number of full-time equivalent employees is appropriate and does not deviate significantly from benchmarked municipalities.
- The County's 2014 capacity review demonstrates reasonable due diligence to ensure that the capacity of the organization meets service delivery expectations.

**It is recommended that:**

13. Administration discontinue the practice of sealing performance reviews in a manner that they cannot be reviewed by the HR Manager
14. Update the County's Workplace Harassment Policy to address bullying in the workplace
15. Senior administration take responsibility to ensuring consistent application of personnel related policies across all parts of the organization
16. The County initiate the process of exit interviews with outgoing employees
17. The County begin a process of regular staff satisfaction surveys
18. The County review and amend its overtime policy to address the requirement for an overtime agreement

## Planning and Development

As previously identified, the municipal service capacity review identified the need to hire several positions within planning and development. These included: 1) a Director of Planning and Development, (2) a Planning and Development Officer (1-year term position), (3) a Planning and Development Customer Service Representative, (4) a Development Education Officer. Planning and Development appears to have been an issue for the County over the last number of years, resulting in a large-scale turnover in the Department, and an expansion of Department resources.

Prior to the current changes in Planning and Development, several concerns with Department operation were identified. These include:

- Poor turnaround times for development permits. Turnaround times in 2014 were (80 to 150 days). The Department has undergone a review of the process for prioritization. In the first quarter of 2015, the Department was able to meet a standard of 40 days, with some under 20. Turnaround on permitted uses that comply with bylaws is now very quick.
- Staff used to have broad discretion to make variances to development requirements. There has now been an amendment to the bylaw to place that authority only with the Municipal Planning Commission (MPC).

- There has been a significantly increased focus on enforcement. The Director identifies that, for the first time since 2010, they are following up on permit conditions to ensure compliance.
- The Director identified issues with a development permit originally issued in 2008 that was amended in 2010, and then had a signature page for the original permit re-attached by a County employee without the consent of the County's signatory. This draws into question the legitimacy of past documents created by the department.

It appears that the capacity and culture of the Planning and Development Department has been addressed by implementing the recommendations of the Service Capacity Review and the hiring of a new Director.

It is recommended that:

19. The County complete an audit of development permits issued or amended during a five year period beginning in 2008 to determine if there is a pattern of irregularities that needs to be addressed.

## Financial Position and Financial Practices

Using 2013 financial indicators provided by Alberta Municipal Affairs which compared Brazeau with 18 other Alberta counties, along with 2014 budget data, Brazeau County's current financial position was considered.

- In 2013, Brazeau County's median residential and non-residential tax rates did not deviate significantly from the median of benchmarked Counties in Alberta. With a 30% reduction in residential mill rates for 2015 (discussed later), the County is now significantly below average.
- At 99.2%, Brazeau County's tax collection rates are above the median of 98.3% for other Counties
- In 2013 Brazeau County had used 9.9% of its debt limit, which is identical to the Median of benchmarks.
- The County's long term municipal debt per capita in 2013 was \$650. This is identical to the median of the comparables and is a significant decline from 2010 with debt per capita was \$1,757.
- A higher than average percentage of Brazeau County's total revenue comes from property taxes as opposed to grants and user fees.

- Brazeau County does not deviate significantly from benchmarks in terms of per-capita expenditures on: general government, protective services, or transportation. The County is above the median on recreation and culture expenditures. Overall, in 2013, the County was \$653 per person less than benchmarks in total expenditures.
- Brazeau County has a higher than median accumulated surplus per capita relative to benchmarks.

Overall, Brazeau County is financially stable and demonstrates a history of effective financial management.

As a component of the Inspection financial practices and policies were reviewed. The Inspection identified that financial controls are in place, and that they are well developed and implemented. Financial processes, including administration's budgeting processes, are well documented and effective. Generally, the Inspection did not identify any significant issues with the financial practices of the County. One exception to this is an anomaly in the Mill Rate Bylaw process that occurred in 2015 which is discussed in the section that follows.

### **Mill Rate Bylaw Process**

The process for the adoption of Brazeau County's 2015 Mill Rate Bylaw was highly irregular, and demonstrates both a poor process and overall poor governance practices. The circumstances surrounding the passage of this bylaw are as follows:

- At the April 7th, 2015 meeting of Council, Reeve Guyon put forward a proposal to reduce the County's Mill Rate Bylaw in keeping with his campaign platform during the by-election. Council had previously gone through the full process of budgeting based on the premise of keeping mill rates constant.
- The proposed reduction to residential mill rates was thirty percent when compared to their 2014 level. This translated to a reduction of tax revenue in the amount of \$841,366. The Director of Corporate Services advised Council that this amount could be drawn from the County's unrestricted surplus to meet the County's budget requirement.
- Two readings of tax rate bylaw 865-15 were passed at the council meeting with two opposed: Councillor Gressler and Councillor Mahan. Councillors Thompson and Westerlund were not present at the meeting. The first two readings therefore went 3-2 in favour.
- It is noteworthy that a Council of 7 attempted a major change to its mill rate bylaw with only three Councillors providing support. While this is not in contravention of the *MGA*, it does not demonstrate respect for the role of Council as a collective body.
- Council did not provide unanimous consent for a third reading on April 7th, as would be required by the *MGA*. There was an attempt to hold a special meeting the next day (April

8th, 2015). However, without unanimous consent, this was not permissible. As a result, the Reeve called a special meeting for April 10th, 2015 which did not require a waiver.

- Following the second reading, the Town of Drayton Valley sent a letter to the county advising against the tax reduction. The letter noted that the county's tax rate would apply on some of the properties in town, therefore the town would lose out on some of the revenues. This relates to an agreement on taxation effecting residents impacted by a recent annexation. For 50 years, residents have the security of the town or county's mill rate, whichever is lower.
- The letter read, in part, that the reduced tax rate: "will result in either higher taxes for other town residents or a reduction of services or both. We are very concerned about this. Not only how this will impact but also due to lack of county's consultation with the town. In fact we received no communication from the county about this at all". The Inspector agrees that the County had a duty to communicate on this matter.
- Before third reading of bylaw 865-15, the CAO read a statement of the implications should Council not pass the bylaw on third reading. He is quoted in the newspaper as saying: "If there is no bylaw in place today, I will then close the doors and send my men and women [county administration] home". Followed by, "I need to have an answer to me today. Yes, you are right the time line is April 24, but during this time there is an instability, going back and forth".

It is noted that the April 24th deadline is one set by the County, and is substantially earlier than other municipalities. In addition, senior administration expressed the opinion that other options could have been explored, including moving the schedule for tax notices from May to June.

It is further noted that the process had not taken an unreasonable period of time. The bylaw was only scheduled for first reading on April 7th, 2015. By April 10th, there should not have been the need for threats or a rushed process.

- At the special council meeting on April 10th, the residential tax rate bylaw 865-15 was given a third reading and was passed unanimously. Councillors report that their decision to support the bylaw was based on the threat of an administrative shutdown.

There is a perception among some Councillors and members of the public that the CAO forced through a bylaw in support of the reeve. The Inspector agrees that there is foundation to this perception.

It is recommended that:

- 20. The County complete a review of the budget and mill rate bylaw adoption processes including current timelines in order to ensure reasonable time for Council deliberation.
- 21. The County adopt a process of communication/consultation relating to the mill rates of Town of Drayton Valley residents impacted by Brazeau County taxation decisions.

## Inter-Municipal Agreements

Petitioners and residents expressed strong concerns with Brazeau County’s inter-municipal agreements, specifically with Town of Drayton Valley. It was generally expressed that the County’s expenditures on Town projects, services and facilities were excessive and poorly considered. Of special significance to petitioners and some interviewees was the County’s decision to partner as co-owners of the Eleanor Pickup Arts Centre (EPAC). In response to these concerns, the Inspector examined the County’s inter-municipal agreements to determine if there were any significant issues.

## Costs

The first area of consideration is the overall cost of inter-municipal agreements to determine if they are irregular, imposing an unreasonable financial burden on County rate-payers, or impairing the ability of the County to provide services to County residents.

In 2015, the County budgeted transfers to Drayton Valley as follows:

Category	Transfer (2015 Budget)	Per Capita	Notes
Police Protection	\$ 37,000.00	\$ 5.14	RCMP Administrative Support
Fire Protection	\$ 782,770.00	\$ 108.70	Includes capital purchases
Airport	\$ 61,053.00	\$ 8.48	
Water Supply and Distribution	\$ 531,685.00	\$ 73.83	Primarily master plan and capital projects
Family and Community Support Services	\$ 136,066.00	\$ 18.90	
Daycare	\$ 45,000.00	\$ 6.25	
Economic Development	\$ 30,000.00	\$ 4.17	
Recreation and Parks	\$ 1,026,698.00	\$ 142.58	Approx. \$900,000 ongoing plus capital purchases and plans
Culture	\$ 34,500.00	\$ 4.79	Library and Canada Day Celebrations
Total	\$ 2,684,772.00		

These expenditures were compared to benchmark average program expenditures for other, similar municipalities. We identified the following:

- Expenditures for protective services for the County do not significantly deviate from average of a comparison group of rural municipalities.
- Per capita inter-municipal transfers for recreation and parks are significantly over the average of benchmarked municipalities. The Inspector looked at six counties with populations comparable to Brazeau County (+/- 30%), all of which had a Town falling within their boundaries with a population comparable to the Town of Drayton Valley (+/- 35%). For these comparables, the median per capita expenditure on recreation and parks was \$42.50, with a high of \$50.00. At \$142.58, Brazeau expends considerably more than benchmarked Counties.
- Total expenditures on recreation for the County are approximately 59% above that of a comparison group of rural municipalities
- The County's per-capita funding to the Village of Breton is considerably lower than the County's per-capita level of funding to the Town of Drayton Valley. This is not unusual, given the Town's role as a regional service hub.

Based on our assessment, Brazeau County is providing a substantially higher level of per capita recreation transfers to the Town of Drayton Valley than would be considered normal based on comparable municipalities. We must, therefore, ask a fundamental question – is this a problem? In evaluating the issue of inter-municipal transfers, we considered the following points:

- Brazeau County is in a strong financial position, with lower than average residential tax rates, and average levels of long-term municipal debt when compared to benchmarked rural municipalities. The amount of inter-municipal transfers being provided to the Town does not appear to be a hardship for County residents.
- Regional service delivery and inter-municipal cooperation is encouraged by Alberta Municipal Affairs as a sustainable approach to service delivery.
- The areas in which the County is providing funding are areas where the County is benefitting from the Town's role as a regional service hub (utilities, protective services, recreation, and community services). These expenditures are, therefore, consistent with the County's mandate.

Although it is clear that the County is exceeding normal expenditures in the area of inter-municipal transfers, the Inspector does not consider this to be a significant point for criticism. In our assessment, the County's expenditures:

- Are within the power to Council to expend;
- Are consistent with the County's mandate to support service delivery to its residents;

- Are not causing undue financial hardship to ratepayers, or impairing the County’s ability to provide services; and,
- Are consistent with municipal leading practices for inter-municipal cooperation and regionalized service delivery.

It was identified that year to year transfers have been highly variable, largely due to capital projects and purchases. There are also significant differences between budgeted and actual expenditures in any given budget year. For example, in 2014 the County budgeted \$4,304,751 in transfers to Drayton Valley, but had real expenditures of only \$2,292,249. If the County is going to support capital purchases and projects in targeted service areas, a preferred model would be a consistent funding level supported by a long-term capital repair and replacement plan. Funds designated for capital projects and purchases could be placed in a restricted fund until expended. This would allow for predicable funding to the Town, and predictable budgeting for the County.

It is the assessment of the Inspector that the County and the County’s Council are acting within their mandate and the mandate of a Municipality to ensure service delivery to residents. In many cases, the County has elected to make use of inter-municipal agreements with the Town of Drayton Valley as the mechanism to provide services which include: fire and police protection, water supply and distribution, social services, recreation, culture, and economic development support. The cost for the County of providing the majority of these services through inter-municipal agreements does not significantly deviate from the cost of providing these services in other municipalities. The exceptions are in the areas of recreation and culture. The choice to expend more in these areas is a power of Council. It does not appear that the decision to expend a higher than normal amount on recreation and culture is impoverishing the municipality or leading to higher than normal taxes or municipal debt.

### **Inter-Municipal Cost Sharing Process Concerns**

During the Inspection, it was identified that the County is not exercising appropriate due diligence with respect to inter-municipal agreements, and is engaging in poor governance practices. The Inspection identified the following issues:

- Council agreed to the joint ownership agreement on the Eleanor Pickup Arts Centre (EPAC) without having a structural engineering report on the building. Completing a major facility purchase without an engineering report would be considered a failure to exercise due diligence. Due to its perceived historical significance, the Town wished to retain the existing facility improving only the external façade and completing asbestos abatement. Brazeau has received feedback that EPAC is structurally sound, but no formal supporting documentation has been provided.

- The County has engaged in some cost sharing arrangements with the Town based on percentage splits of net expenses. It appears that, from 2011-2014, there was no assessment of expenditures in response to deviation from projected revenues and no audit process to ensure the County was paying at an appropriate level. This has since been addressed. However, a mechanism for reasonable financial oversight processes should have been written into the original agreements.
- In the case of EPAC, both senior administration and the County's legal counsel expressed concern that there was not an out clause for the County contained in the negotiated agreement. That has been partially addressed, but the added out clause would be considered quite weak.
- If Brazeau County is going to be engaged in cost sharing or joint ownership on facilities in the Town of Drayton Valley, the County should be insisting on having a role as active participants in determining the form of the services provided. In this way, the County can act to ensure the services provided meet the needs of County residents. A mechanism for engagement should be written into any joint agreement. A review of recreation and culture agreements does not show provisions of this type. In addition, County employees confirm that this type of consultation on program delivery does not regularly occur.

## Governance Practices

Two specific concerns were raised with respect to the County's governance practices regarding the joint ownership agreement on EPAC. These related to the special meeting of Council at which motion #360/15 approving the joint ownership agreement was passed, and Council's subsequent response to a resident petition on the matter.

- On March 24th, 2015, a special council meeting was held. At this special meeting, Council moved to approve the joint ownership agreement and the lease agreement with the town as it related to the Eleanor Pickup Arts Centre. Discussions regarding this joint agreement had been ongoing since the County presented a formal proposal to Drayton Valley Council at its Apr. 23, 2014 meeting. The final agreement provided for total funding from the county towards EPAC of \$851,000, of which the county has already contributed \$40,000 in 2011 and \$50,000 in 2013. At the special meeting, only Councillor Anthony Heinrich was not in favour of the decision.

It appears that the special meeting on EPAC may have been rushed so that it could be completed prior to the election of the current Reeve. Although the special meeting was consistent with the timeframe contained on the offer to purchase, the process had been ongoing for almost a year, and it is likely that both parties could have agreed to extend the timelines. Based on interviews, some participants in the special meeting to approve

EPAC acknowledge that the timing was influenced by the goal of approving the agreement prior to the anticipated election of Bart Guyon on March 30th, 2015.

Some residents believe that Council had a governance obligation to delay voting on this controversial issue until a new Reeve had been elected. Given that the by-election had been contested, in part, on the County's proposed investment in EPAC, we believe that this is a reasonable expectation.

- On May 25th, 2015, the Chief Administrative Officer for the County received a petition signed by more than 800 individuals. The stated purpose of the petition was to “rescind motion #360/15 approving the Joint Ownership Agreement and the Lease Agreement with the Town of Drayton Valley as it relates to the Eleanor Pickup Art Centre”

It appears that the number of signatures on the petition met the 10% requirement found in section 225 of the *MGA*. As a result, the CAO advised Council that the petition was sufficient. In the event that a petition is deemed sufficient, the *MGA* states that Council must give first reading to a bylaw dealing with the subject matter of the resolution within 30 days. However, this would only apply to a petition that was “in effect”. Section 232(2) of the *MGA* states that a petition does not have effect if it calls for the appeal of a resolution made under Parts 8, 9, 10, or 17 of the *MGA*. Part 8 of the *Municipal Government Act* relates specifically to the financial administration of a municipality.

The County received a legal opinion on this matter, and chose to declare the petition to be sufficient, but to be of “no effect” in accordance with Section 232(2) of the *MGA*. The Inspector has reviewed the correspondence with respect to this matter, and is reasonably satisfied that the County is following the advice of legal Counsel. Any further action on this matter would require a court to rule on the “effect” of the petition. The decision to proceed through a court process rests with the petitioners.

It is recommended that:

22. The County adopt a process for due diligence regarding joint agreements that includes structural assessments, financial disclosure, and effective out clauses.
23. The County review current and future agreements to ensure Brazeau County has input into programming decisions attached to funding agreements.
24. The County work with the Town of Drayton Valley to develop a consistent funding formula for capital asset repair and replacement.

## Concluding Comments

This Inspection identified a number of areas of concern with Council and administration. Key amongst these are:

- Working relationships between Council members;
- Matters of pecuniary interest and confidentiality;
- HR practices;
- The decision making practices of Council during Council sessions;
- The process for passing the County's mill rate bylaw;
- The structure and process for entering into inter-municipal agreements;

While these matters are significant, we view them generally as opportunities to improve process and understanding. None of the matters contained in this report would be viewed as a significant transgression requiring further action against individual Councillors or the municipality as a whole.

Municipal Inspections assess a municipality to determine if the matters of concern identified by the Inspector fall within the categories of irregular, improper or improvident conduct by Council or administration. These terms, as applied to a municipality can be defined as:

**Irregular** - not according to established law, method, or usage, rules or to established principles.

**Improper** - Not suitable; unfit; not suited to the character, time and place.

**Improvident** – Demonstrating want of care and foresight in management.

In the Inspection of Brazeau County, the Inspector has identified some areas of concern which should be addressed by the County's administration and Council. However, the issues identified in this report do not qualify as indications that the County is being governed or operated in an irregular, improper or improvident manner.