

Preliminary Review

Thorhild County September 2014

Background

The Minister received a sufficient petition from the residents of Thorhild County, as per Section 572 of the *Municipal Government Act (MGA)*, requesting that the Minister undertake an inquiry into the conduct of council and the Chief Administrative Officer of the county citing concerns with management and governance.

Description of Municipality

Thorhild County is a relatively small rural municipality in North Eastern Alberta with seven hamlets, but no incorporated urban municipalities within its boundaries. Primarily an agricultural community, the county is also in close proximity to oil and gas activities and as such has access to a moderate linear assessment base.

Internal Research Findings

Financial Indicator Graphs

The following points were noted from the county's 2012 financial indicator graphs:

- While residential equalized tax rates were slightly lower than the median, non-residential rates were significantly above the median.
- The county's revenue sources are disproportionately high to the comparison group with respect to sales and user charges, likely as a result of the municipally owned natural gas operations.
- With respect to the other indicators, Thorhild County was close to the median of the comparison group.

Financial and Statistical Information Returns

Thorhild County's 2013 financial statements indicate a fairly strong financial position for the county as of December 31, 2013, including:

- Net financial assets of more than \$8 million.
- Very small amount of long term debt (\$870,423).
- Operational revenues in excess of expenditures of \$1,887,795.
- Overall revenues in excess of expenditures of \$6,219,624.
- Investment in tangible capital assets of more than \$6 million.
- Available cash and equivalents in excess of \$5 million.

This is Exhibit "2" referred to in the Affidavit of

Gary Sandberg

Sworn before me this 23 day

of March A.D., 2014

Mark T. Talaga

A Commissioner for Oaths in and for Alberta

MARK T. TALAGA
BARRISTER & SOLICITOR

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Municipal Financial Clarification Regulation Compliance

Thorhild County has been in compliance with the Municipal Financial Clarification Regulation since its inception in 2009. Currently, as noted in the analysis of the Municipal Sustainability Strategy Key Measures below, the county maintains an accumulated surplus, net of equity in tangible capital assets, of more than \$10 million.

Tax Rate Bylaw

A review of the 2014 Tax Rate Bylaw identified a number of concerns:

- The amounts included in the bylaw with respect to budgeted expenditures and resulting revenue requirements do not agree.
- The county applies a varied rate of taxation with respect to residential properties.
 - According to the tax rate bylaw, residential assessment classes are set based on location: county, resort, Thorhild, and hamlet.
- Residential rates are as follows:
 - county and resort residential: 3.2445
 - hamlet residential: 4.3260
 - Thorhild (the former village, now hamlet): 6.3260
- Discussions with the Chief Financial Officer indicated that there is no budgetary or service level basis on which to justify the varied rates of taxation.

Action Request History (Two years)

This review identified a significant number of documents that have been broadly summarized in two categories:

County Residents

- Numerous letters have been received from residents of Thorhild County that identify concerns with council decisions, procedure for formal FOIP requests, Chief Administrative Officer (CAO) termination/payout/hiring, councillor disqualification, hamlet operations, and the resident petition.

Letters from the Municipality

- Concerns with changes to the Municipal Sustainability Initiative (MSI) (operating), Assessment and Tax of Carbon Capture Storage, Municipal Wildfire Assistance, Request for a formal name change, and time extension requests.

Grants Information

To date the county has been allocated \$7,680,111 under the MSI Capital Program and an additional \$1,837,109 under the MSI Operating Program. The county has submitted all statements of funding and expenditures (SFEs) up to 2012 but both the capital and operating SFEs for 2013 (due May 1, 2014) remain outstanding.

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The county has been approved for nine projects that are ongoing under MSI Capital totalling \$13,155,986 in total project costs and \$6,087,838 in approved MSI Capital funding to be applied to those projects. The county has yet to receive its 2014 MSI Capital allocation as it has not submitted any capital projects for 2014.

Planning Information

The most significant planning issue for the municipality has been the controversial development of the landfill. This project is ongoing and will continue to provide financial benefits and planning challenges for the municipality into the future.

Planning advisory staff recently visited Thorhild County on a new CAO visit. They noted a bias when discussing the new Waste Management facility with the CAO and a lack of neutrality. Prior to employment with the municipality, the CAO served as the lead on the citizens group opposing the landfill development.

Municipal Election Results

Council is comprised of five members with the reeve elected from within council. The 2013 election brought in two new and three returning councillors. It should be noted that there is a consistent 3-2 division on council which will be further discussed in this report.

News Clippings

A general online search of media coverage resulted in the following finding: Westlock News – Former CAO severance figure – The former CAO of Westlock County is now employed by Thorhild County in an Economic Development capacity and also as the Interim Land Use and Taxes Director.

Contact with Municipal Affairs

Numerous staff members have been contacted by a variety of stakeholders of Thorhild County. These contacts include general advisory calls, complaints, and legislative and internal procedural clarifications from residents, administration, and council. The primary concerns have been with the current council dynamics and subsequent council decisions, alleged legislative contraventions, petition sufficiency, and the replacement of the previous CAO with an inexperienced CAO who has personal ties to the Reeve and Deputy Reeve.

Internet Search/ Municipal Website

An internet search of 'Thorhild County' displays the official county website and other routine information sites. The county's website appears to be adequate. The information provided is not entirely up to date, and is incomplete in some cases. A review of the council meeting minutes was undertaken and, while a few procedural discrepancies were spotted, numerous legislative contraventions were identified. Examples include a councillor declaring a pecuniary interest after a discussion and the vote is taken, and a councillor not voting on motions put forward.

A review was also conducted of the available on-line bylaws. Legislative non-compliance and discrepancies were noted earlier with respect to the 2014 Tax Rate Bylaw.

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Municipal Sustainability Key Measures

The Municipal Sustainability Strategy (MSS) outlines key measures of sustainability for municipalities in Alberta. The measures are intended to be used as a means of revealing local circumstances that might merit further attention.

When a municipality triggers three measures, or measure #3, the municipality will be flagged for further review. If flagged, Municipal Affairs staff will contact the municipality to review the cause(s) of the trigger(s) and to discuss options for assisting the municipality.

A review of the key measures had the following results:

1. Has the municipality reported an accumulated deficit, net of equity in tangible capital assets, for the past three fiscal (calendar) years?

YES NO

Accumulated surplus, net of equity in tangible capital assets:

2011: \$7,964,594 2012: \$8,234,645 2013: \$10,331,540

2. Does the municipality have less than a 1:1 ratio of current asset to current liabilities?

YES NO

Current Assets: \$11,186,765

Current Liabilities: \$2,854,428

The 2013 audited financial statements indicate that current assets exceed current liabilities. The ratio of current assets to current liabilities is 3.92:1

3. Has the municipality received a "qualified audit opinion", "denial of opinion" or an "adverse opinion" with respect to your most recent annual financial statements?

YES NO

The audit report states that the 2013 financial statements are free from material misstatement.

4. Has the municipality reached 80 per cent of its debt or debt service limit?

YES NO

2013 Debt: 4 per cent of limit

2013 Debt Service: 3 per cent of limit

5. Based on the annual audited financial statements, have provincial and federal grants accounted for more than 50 per cent of the municipality's total revenue in each of the past three fiscal (calendar) years?

YES NO

2011: 27.8 per cent

2012: 19.4 per cent

2013: 33.3 per cent

6. Has the municipality's non-residential assessment base declined over the past 10 years?

YES NO

There has been a 101 per cent increase in non-residential assessment since 2003

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7. Does the municipality have more than 5 per cent of current property tax unpaid for the most recent completed fiscal year?

YES NO

The municipality had 2 per cent of property tax unpaid for the 2013 fiscal year.

8. Has the municipality experienced a decline in population of the municipality over the last 20 years?

YES NO

1993 population: 2,912*

2013 population: 3,417

Over the past 20 years the municipality's population has increased by approximately 17 per cent.

*Note: In 1993 the county had 3 villages within its boundaries (the Villages of Egremont, Radway, and Thorhild). Had their populations been included in the calculation for Thorhild County's population, the county would have seen a decline in population of 498 or 13 per cent. These villages have since dissolved and therefore are a part of the 2013 population results.

9. Is the remaining value of the tangible capital assets less than 30 per cent of the original cost?

YES NO

2013: 30 per cent

10. Has the municipality missed the legislated May 1 reporting date for the annual audited financial statements in each of the last 2 years?

YES NO

Based on the above summary, Thorhild County has not triggered any of the key measures.

Interview Findings

Interviews were conducted on September 10 and 11, 2014, at the county office in the hamlet of Thorhild with;

Reeve Wayne Croswell;

Councillors - Dan Bury, Kevin Grumetza, Shelly Hanasyk, and Larry Sission;

Chief Administrative Officer - Betty Kolewaski;

Director of Corporate Services - Janelle Cornelius;

Director of Public Works - Rick Nietupski;

Community Economic Development Officer - Ed Leblanc;

Manager of Human Resources and Payroll - Laurie Andrushchyshyn;

Utilities Foreman - Ken Reil;

Welder - Kelsey Pasay; and

Petition Representative - Angela Zilinski.

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PLEASE NOTE: This record constitutes advice, recommendations, or policy considerations that have been created for submission to the Minister and is to be kept confidential.

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The following is also noted;

- A number of staff specifically requested that their interviews be kept confidential for fear of losing their job.
- Several recently dismissed staff requested interviews, which were denied as only interviews with current staff is within the scope of the Preliminary Review process.
- Several community members requested interviews, which were also denied as only an interview with the Petition Representative is within the scope of the Preliminary Review process.

Those interviewed were asked the same questions and were advised that comments made during the interview would be confidential and that the collective information gathered in the interview process would be summarized in a report to the Minister.

1. Administration

The administration for Thorhild County has seen five CAO's in the last five years; three since the October 2013 election. The hiring of the current CAO was extremely controversial. The CAO is well known in the community as being the chair of the Concerned Citizens of Thorhild County and actively working towards the demise of the Waste Management Landfill for a number of years. The CAO is also a personal friend of the current Reeve and Deputy Reeve of Thorhild County. Many comments were made questioning the CAO's ability to be impartial and neutral in her role as the CAO given her previous community involvement and personal relationship with two of the council members on the majority side of the 3-2 split council.

Since the CAO's hiring a number of staff have either been terminated, have resigned, or have taken a medical leave. Staff commented that they did not feel trusted and are not consulted regarding information brought to council concerning their particular area of expertise. The staff are afraid for their job, and are disappointed and frustrated that they are often publicly berated at council meetings with no intervention/support from the CAO to encourage council to take these matters in-camera.

Comments were also made that communication within administration has deteriorated significantly. This is the primary contributor to the lack of trust, and fear of losing employment.

The CAO and recently hired senior management provided a differing perspective on the current situation, indicating the county was progressing along well and expressed the belief that the situation with staff was improving. An acknowledgement was made that there was, and still remains a steep learning curve for the CAO considering her lack of experience in a municipal environment.

When asked what could remedy these concerns, most responded that a new CAO would be required. However, it was also suggested that mediation, training and team building exercises may also be helpful.

In addition to the issues identified above regarding the administration of the county, concerns were also expressed regarding the administration of the Highway 28/63 Regional Water Commission, of which Thorhild County is a member.

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Current commission bylaws state that Thorhild County is to provide for the management and administration of the commission. Prior to the position being restructured by the new CAO, the county utilities director was responsible for management of the commission. With the restructuring of the county's utilities department and resulting elimination of the position of utilities director, some commission directors expressed interest in hiring the former utilities director to be the manager of the commission independently from the county. County council disagreed with this option, citing commission bylaws that specify the county as the commission's manager.

County staff discussed concerns they had heard from other commission member municipalities regarding the county's lack of involvement in the management and operations of the commission since laying off the utilities director, citing the new CAOs absence at key meetings and inability to address commission issues in a timely manner. There are four other municipalities that are members of the commission (Smoky Lake County, Town of Smoky Lake, and the Villages of Vilna and Waskatenau) and impacted by the county's commission management decisions.

2. Governance

Communication between council and the CAO is inconsistent in that not all councillors are included in CAO correspondence and information updates. Council is not adhering to the provisions of the *MGA* when conducting its meetings and making decisions. Examples of legislative contraventions include pecuniary interest, not voting, inappropriate behavior/comments during council meetings, and erroneous reasons for moving a meeting to in-camera.

Each side of the council split is responsible for the breakdown of good governance. Even though council is in the midst of the development of a strategic plan, the focus of the municipality has been lost on the endeavor to prove the other side wrong. Several councillors and staff noted that the division on council has halted the counties progress on several key projects and initiatives.

There is a strong relationship between the majority of council and the new CAO and this is reflected in the communication and correspondence that is distributed to members of council as well as in an inequitable access to municipal documents and information. This also contributes to the council dysfunction.

The responses we received to address these issues focused on the removal of all or a portion of county council. Some believe that all of council should be removed and a new election should be held. Others, depending on their allegiances on council, believe that only one side or the other of the division on council should be removed. There was little to no confidence in the ability of team building or mediation procedures to bridge the divide on council.

3. Finances

While it was noted on several occasions that the county is in a relatively strong financial position several interviewees identified concerns with council's management of the county's finances. Those concerns seemed to focus on council making ad-hoc financial decisions without supporting documentation. Several comments were also made regarding council's lack of involvement of key administrative staff with respect to financial decisions and discussions.

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Examples of specific incidents include:

- The purchase of an approximately \$600,000 grader to address road concerns without consulting public works staff. The grader was purchased despite the availability of current leased equipment and insufficient staff resources to operate the additional equipment.
- Approval of \$200,000 in additional costs for a water system repair without consulting the CFO regarding budgetary implications.
- Purchasing a new seniors' bus to replace the current one based on comments from the public of a "bumpy ride". Public works staff had a full safety inspection conducted on the current bus, which was only two years old, and despite its clean inspection council voted to go ahead with the purchase of a brand new bus.

Comments were also made with respect to inequitable treatment of projects and budget requirements between divisions. The needs of the electoral divisions represented by the minority faction of council appear to be superseded by the needs of the electoral divisions represented by the majority of council regardless of the urgency or number of residents impacted by those needs. Furthermore, council has expressed an interest in moving to divisional budgets as opposed to one municipal budget. The provisions of the *MGA* regarding municipal budgets speak to the municipality having a singular budget upon which the tax rate bylaw is developed in conjunction with the municipality's assessment information. Section 153 of the Act lists the general duties of a councillor, including the responsibility to consider the welfare and interests of the municipality as a whole (153(a)). Divisional budgets focused on the needs and interests of each councillor's individual division would be contrary to that responsibility.

4. General Comments

Each individual interviewed commented on the divisiveness of council with the consensus being that the source of the divide started with the onset of the landfill debate and the key role those on council played in it. The unrest within administration appears to have begun with the hiring of the new CAO and her perceived lack of impartiality with respect to the divide on council.

The lines between the role of administration and council are blurred and a clear understanding does not exist.

The residents of Thorhild County have difficulty accessing information from the municipality as each request is treated as a formal FOIP request. A municipality should facilitate the sharing of information, not impede it.

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Conclusion

The working environment in Thorhild County is highly dysfunctional. Based on the interviews and a cursory review of the council meeting minutes, it is clear the county has a split council. While split councils are not uncommon, the contribution of the CAO's lack of impartiality heightens and almost encourages this division

There appears to be a noteworthy lack of understanding of what council's role and purpose is. In addition to the interviews, the review of the council meeting minutes shows blatant misuse of power through the lack of transparency perpetrated through the abuse of in-camera sessions, and direct contraventions of the *Municipal Government Act*.

It appears that county staff are underutilized and are not consulted when information is gathered to assist council in their decision making. This has led to council decisions that have fallen outside of the budget and legislative requirements. In addition, the staff allegedly received inappropriate and unprofessional treatment from the CAO and some members of council leading them to fear for their positions within the organization.

There is a strong stance by the CAO on how information is provided to some of council and the residents of the county in that the use of formal FOIP requests appears to be the rule as opposed to the exception.

Council and new CAO have demonstrated a clear lack of understanding with respect to their legislated roles and responsibilities. This, in conjunction with the other matters brought forth in this review, highlights the seriousness of the issues Thorhild County is currently experiencing with respect to the governance and management of its affairs.

Reviewers: Desiree Kuori, Travis Nosko
Submitted: September 23, 2014

