

VILLAGE OF RYLEY
REGULAR COUNCIL MEETING
August 20, 2019, 6:45 p.m.
Ryley Municipal Office Council Chambers

COUNCIL members present

Mayor	Terry Magneson
Councillor	Cyndy Heslin
Councillor	Brian Ducherer
Councillor	Nik Lee
Councillor	Mathew Kowalski

ADMINISTRATION present:

CAO	Glen Hamilton-Brown
Recording Secretary	Jocelyn Gates
Alberta Counsel	Robert Reynolds

1. CALL TO ORDER:

Mayor Magneson called the meeting to order at 6:43 p.m.

2. ADDITIONS/DELETIONS:

September 14, 2019	St Paul, Victim Services
September 24-27, 2019	AUMA Conference
Point of Order 2b	Charter Rights, Jason Hill

3. APPROVAL OF THE AGENDA:

2019-08-20 #1: MOVED by Cr. Ducherer to approve the agenda as amended. **CARRIED**

2019-08-20 #2: MOVED by Cr. Lee that council for the Village of Ryley directs the CAO to prepare a procedural bylaw that is Charter compliant.

Cr. Lee requested a recorded vote

In Favor Cr. Heslin, Cr. Ducherer, Mayor Magneson, Cr. Kowalski, Cr. Lee **CARRIED**

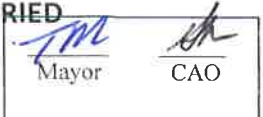
3.1 Order of the Day

2019-08-20 #3: MOVED by Cr. Ducherer that the order of the day be 10:00 p.m. **CARRIED**

4. MINUTES OF PREVIOUS MEETINGS:

4.1	16 July 2019 Regular Meeting
4.2	6 August 2019 Committee of the Whole

2019-08-20 #4: MOVED by Cr. Ducherer that council for the Village of Ryley approve the July 16, 2019 Regular Council Meeting minutes, August 6, 2019 Committee of the Whole Minutes.

CARRIED

Mayor CAO

5. DELEGATIONS: NONE

6. BUSINESS FROM MINUTES:

6.1 RFD: Designated Financial Institution

2019-08-20 #5: MOVED by Cr. Heslin that council for the Village of Ryley name Alberta Treasury Branch, Ryley, Alberta as the banking institution as per section 270 of the MGA.
CARRIED

6.2 Recommendations from Hearings of 9 July 2019 (Code of Conduct) See Attached

Cr. Heslin requests all Councilors to consider whether they must recuse themselves from consideration and voting on this recommendation #1.

Mayor Magneson left council chambers at 8:00 p.m. and handed the chair to deputy mayor Cr. Heslin.

2019-08-20 #6: MOVED by Cr. Heslin that council for the Village of Ryley accepts the recommendations from Committee of the Whole on Hearing #1.

Cr. Lee requested a recorded vote

In Favor: Cr. Ducherer, Cr. Heslin, Cr. Kowalski

Opposed: Cr. Lee

CARRIED

Mayor Magneson returned to council chambers at 8:07 p.m.

Cr. Heslin requests all Councilors to consider whether they must recuse themselves from consideration and voting on this recommendation #2.

Cr. Ducherer recused himself at 8:10 p.m.

2019-08-20 #7: MOVED by Cr. Heslin that council for the Village of Ryley accepts the recommendations from Committee of the Whole on Hearing #2.

Cr. Lee requested a recorded vote

In Favor: Cr. Ducherer, Cr. Heslin, Cr. Kowalski

Opposed: Cr. Lee

CARRIED

Cr. Ducherer returned to council chambers at 8:25 p.m.

2019-08-20 #8: MOVED by Cr. Heslin that council for the Village of Ryley requests delivery of apology letter to be delivered to the Village of Ryley no later than thirty (30) days from today.
CARRIED

Cr. Heslin requests all Councilors to consider whether they must recuse themselves from consideration and voting on this recommendation #3.



Mayor Magneson recused himself at 8:28 p.m.

2019-08-20 #9: MOVED by Cr. Heslin that council for the Village of Ryley accepts the recommendations from Committee of the Whole on Hearing #3.

Cr. Lee requested a recorded vote

In Favor: Cr. Ducherer, Cr. Heslin, Cr. Kowalski

Opposed: Cr. Lee

CARRIED

2019-08-20 #10: MOVED by Cr. Heslin that council for the Village of Ryley requests such further particulars to be provided to Committee of the Whole through administration no later than Friday, September 6, 2019 to allow time for legal advice and administrative preparation for Hearing #3 to continue by the Committee of the Whole. **CARRIED**

2019-08-20 #11: MOVED by Cr. Lee that council for the Village of Ryley direct administration to report back to council the number of instances where Cr. Magneson did vote in matters pertaining to Clean Harbors.

Cr. Lee requested a recorded vote

In Favor:

Opposed:

The motion was ruled as out of order by the Chair Cr. Heslin.

Mayor Magneson returned to council chambers and resumed chair at 8:55 p.m.

2019-08-20 #12: MOVED by Cr. Heslin that council for the Village of Ryley direct Committee of the Whole to continue with Hearing #3 at an amended date of the Committee of the Whole on October 1, 2019 to be held on October 8, 2019. **CARRIED**

Cr. Heslin requests all Councilors to consider whether they must recuse themselves from consideration and voting on this recommendation #4.

Cr. Kowalski recused himself at 9:02 p.m.

2019-08-20 #13: MOVED by Cr. Heslin that council for the Village of Ryley accepts the recommendations from the Committee of the Whole on Hearing #4.

Cr. Lee requested a recorded vote

In Favor: Cr. Heslin, Cr. Ducherer, and Cr. Kowalski

Opposed: Cr. Lee

CARRIED

Cr. Kowalski returned to council chambers at 9:14 p.m.

Mayor Magneson called for a recess at 9:15 p.m.

Mayor Magneson resumed the meeting at 9:20 p.m.

7. NEW BUSINESS:

7.1 RFD: Tax Sales – Approval of Reserved Bids



2019-08-20 #14: MOVED by Cr. Kowalski that Council for the Village of Ryley set the reserve bids for properties being offered for sale at the 2019 public auction as presented by Taxervice.

Cr. Lee requested a recorded vote

In Favor: Cr. Heslin, Cr. Ducherer, Mayor Magneson, Cr. Kowalski

Opposed: Cr. Lee

CARRIED

7.2 RFD: Attendance NLLS FOIP Training

2019-08-20 #15: MOVED by Cr. Ducherer that Council for the Village of Ryley authorizes Cr. Heslin to attend the FOIP Training on Wednesday, October 9 at 9:00 a.m. at the NLLS Headquarters.

Cr. Lee requested a recorded vote

In Favor: Cr. Heslin, Cr. Ducherer, Mayor Magneson, Cr. Kowalski

Opposed: Cr. Lee

CARRIED

8. BYLAWS:

8.1 RFD: Municipal Development Plan (MDP), First Reading

2019-08-20 #16 MOVED by Cr. Heslin first reading of Bylaw 2019-934, to adopt Village of Ryley Municipal Development Plan Bylaw. **CARRIED**

2019-08-20 #17 MOVED by Mayor Magneson second reading of Bylaw 2019-934, to adopt Village of Ryley Municipal Development Plan Bylaw. **CARRIED**

2019-08-20 #18 MOVED by Cr. Ducherer to proceed with public engagement of Bylaw 2019-934, to adopt Village of Ryley Municipal Development Plan Bylaw. **CARRIED**

9. FINANCIAL REPORTS:

a) *Account Balances; Accounts Payable Bank Reconciliation*

2019-08-20 #19: MOVED by Cr. Heslin that Council for the Village of Ryley accepts the financial reports as presented.


CARRIED

10. CORRESPONDENCE:

10.1 RFD: Wounded Warriors Donation

2019-08-20 #20: MOVED by Cr. Ducherer that council for the Village of Ryley receives and files correspondence. **CARRIED**

10.2 INFO: Beaver Foundation

 Mayor	 CAO
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2019-08-20 #21: MOVED by Cr. Kowalski that council for the Village of Ryley receives and files correspondence. **CARRIED**

10.3 Council meet the Minister at AUMA Conference

2019-08-20 #22: MOVED by Cr. Ducherer that council for the Village of Ryley directs administration to request a meeting with the Minister Madu at the AUMA Convention on September 25-27, 2019. **CARRIED**

10.4 GST on Cost Sharing Agreements: Peace River

2019-08-20 #23: MOVED by Cr. Heslin that council for the Village of Ryley receives and files correspondence. **CARRIED**

2019-08-20 #24: MOVED by Cr. Heslin that council for the Village of Ryley extend the meeting past 10 p.m. **CARRIED**

11. REPORTS:

2019-08-20 #25: MOVED by Cr. Ducherer that council for the Village of Ryley accepts council reports as presented. **CARRIED**

12. CLOSED SESSION:

2019-08-20 #26: MOVED by Cr. Heslin that Council move to closed session pursuant to Section 197 of the Municipal Government Act to discuss a committee update as per Section 17, 19, 23 & 25 of the Freedom of Information and Protection of Privacy Act at 10:13 p.m. **CARRIED**

2019-08-20 #27: MOVED by Cr. Ducherer that council return to open meeting at 10:40 p.m. **CARRIED**

10:40 p.m. – meeting recessed to allow return of public.

10:45 p.m. – meeting resumed with public present.

13. UPCOMING MEETINGS:

- 13.1 September 3, 2019 COW Meeting
- 13.2 September 17, 2019 Regular Meeting
- 13.3 September 14, 2019 St. Paul, Victim Services
- 13.4 September 24-27, 2019 AUMA Conference

14. ADJOURNMENT:

Mayor Magneson adjourned the meeting at 10:47 p.m.

Terry Magneson, Mayor



Glen Hamilton-Brown, CAO



Recommendation of the Village of Ryley Committee of the Whole
Village of Ryley Code of Conduct Hearings
From In-camera sessions
Tuesday, July 9, 2019

I Preliminary matters

On May 17, 2019, the Village of Ryley received a Code of Conduct Complaint Form, with supporting arguments, alleging four separate violations of the Village of Ryley Code of Conduct Bylaw 2018-930 (the "Code of Conduct"). The complainant was Village of Ryley Councillor Nikita Lee. The complained-of persons were Councillor Terry Magneson (complaint #1 and complaint #3), Councillor Brian Ducherer (complaint #2), and Councillor Mathew Kowalski (complaint #4).

On Tuesday, June 4, 2019, the Village of Ryley Committee of the Whole met to consider the proper process to be used to respond to these complaints in a manner consistent with the Code of Conduct, the Village of Ryley Procedural Bylaw 2018-927 (the "Procedural Bylaw"), the Municipal Government Act, RSA 2000, c M-26 ("the MGA"), and the principles of procedural fairness. Among other items, the Committee determined that:

- the Committee would conduct an "in-camera" hearing for each complaint pursuant to s. 13.1 e) ii) of the Code of Conduct;
- the hearings would take place on Tuesday, July 9, 2019;
- legal counsel for the Village of Ryley would be present at the hearings;
- at or before the hearings, the complainant and all complained-of persons would have the opportunity to obtain independent legal representation and advice; and
- at or before the hearings, all evidence submitted to the Village of Ryley concerning the complaints would be circulated to the Committee, subject to any disclosure or vetting concerns.

On Tuesday, July 9, 2019, the Village of Ryley Committee of the Whole met to consider the complaints and moved to conduct "in-camera" hearings pursuant to s.13.1.e) ii) of the Code of Conduct. The motion passed.

Following the motion to conduct the "in-camera" hearings, the Complainant, Councillor Nikita Lee, announced to the Committee that he objected to the hearing process, that he would not be participating in the hearings, and that his arguments and evidence for each complaint had already been submitted and received by the Village of Ryley.

The remaining members of the Committee of the Whole, being Councilors Heslin, Magneson, Ducherer, and Kowalski, considered whether they should proceed with the hearings or seek an alternative remedy under s. 168 of the MGA. The Committee determined that the hearings could proceed in a procedurally fair manner. Although the Complainant had declined the opportunity to attend each hearing, to present his arguments and evidence, and to ask questions, he had been afforded the opportunity to do so. In the absence of the Complainant, the Complainant's arguments would be read aloud in their

entirety, the Complainant's evidence would be presented in its entirety, and both would be considered by the Committee before rendering its decision.

Councillor Heslin chaired each Committee hearing and presents the following recommendations to Council:

1. HEARING #1:

Complainant: Councillor Nikita Lee
Complained-of person: Councillor Terry Magneson
Committee members: Councillor Cyndy Heslin (Chair), Councillor Mathew Kowalski,
Councillor Brian Ducherer

Whereas, the Village of Ryley Committee of the Whole met and considered on Tuesday 9 July 2019, the allegation of a breach of the Council Code of Conduct in the matter of "Committee/Commission Conduct".

- Cr Heslin: CONSIDER RECUSAL & PROCEED

The Committee determined that Councillor Magneson did not contravene the Code of Conduct as alleged.

The Committee found that the evidence supported reasonable effort, sufficient action and a proven history by Councillor Magneson in ensuring his alternate is informed. The Committee did not find evidence of obstruction by Councillor Magneson.

Accordingly, the Committee recommends that Council should not impose a sanction against Councillor Magneson in connection with this complaint.

- Cr Heslin: ACCEPT or REFUSE Recommendation

2. HEARING #2:

Complainant: Councillor Nikita Lee
Complained-of person: Councillor Brian Ducherer
Committee members: Councillor Cyndy Heslin (Chair), Councillor Terry Magneson,
Councillor Mathew Kowalski

Whereas, the Village of Ryley Committee of the Whole met and considered on Tuesday 9 July 2019, the allegation of a breach of the Council Code of Conduct in the matter of "Committee/Commission Conduct".

- Cr Heslin: CONSIDER RECUSAL & PROCEED

The Committee determined that Councillor Ducherer did not contravene s.12.4 of the Code of Conduct as alleged. The Committee did not find any evidence to support an intent to obstruct.

The Committee determined that Councillor Ducherer did contravene s.5.1(g) of the Code of Conduct as alleged.

Councillor Ducherer did not have intent but nevertheless did not take reasonable action to ensure that Counsellor Lee could actively participate in the MCC Committee, to which he was appointed. The Complainants evidence that meeting minutes established participation by Councillor Ducherer was accepted as fact by The Committee.

The Committee recommends that Council should impose a sanction against Councillor Ducherer for failing to adhere to s. 5.1(g) of the Code of Conduct.

The Committee recommends in connection with this complaint, that Councillor Ducherer write a letter of apology to Councillor Lee for failing to notify him, pursuant to Schedule A, in his role as the Alternate and his opportunity to attend the BMS MCC Meeting.

- Cr Heslin: ACCEPT or REFUSE Recommendations
- Cr Heslin: DELIVER THE APOLOGY

3. HEARING #3:

Complainant: Councillor Nikita Lee
Complained-of person: Councillor Terry Magneson
Committee members: Councillor Cyndy Heslin (Chair), Councillor Mathew Kowalski,
Councillor Brian Ducherer

Whereas, the Village of Ryley Committee of the Whole met and considered on Tuesday 9 July 2019, the allegation of a breach of the Council Code of Conduct in the matter of "Perceived Pecuniary Interest".

- Cr Heslin: CONSIDER RECUSAL & PROCEED

The Committee recommends to Council from Hearings that WE require more information from both Councilors Lee and Magneson before WE can render a recommendation. In particular:

Councillor Lee is asked to provide further particulars as to the alleged instances when Councillor Magneson should have recused himself in relation to real or perceived pecuniary interest; and

Councillor Magneson is asked to provide further and better particulars of the agreement including, but not limited to, the Tenancy At Will agreement which includes Schedule D.

We further recommend that Council have legal counsel review any such evidence and provide a legal opinion.

- Cr Heslin: ACCEPT or REFUSE Recommendations
- Cr Heslin: DELIVER THE PARTICULARS
- Cr Heslin: Committee of the Whole to continue Hearing#3

4. HEARING #4:

Complainant: Councillor Nikita Lee

Complained-of person: Councillor Mathew Kowalski

Committee members: Councillor Cyndy Heslin (Chair), Councillor Terry Magneson, Councillor Brian Ducherer

Whereas, the Village of Ryley Committee of the Whole met and considered on Tuesday 9 July 2019, the allegation of a breach of the Council Code of Conduct in the matter of "Perceived Conflict of interest".

- Cr Heslin: CONSIDER RECUSAL & PROCEED

The Committee determined that Councillor Kowalski did not contravene the Code of Conduct as alleged.

The Committee weighed all evidence and determined the most credible version of events.

Accordingly, the Committee recommends that Council should not impose a sanction against Councillor Kowalski in connection with this complaint.

- Cr Heslin: ACCEPT or REFUSE Recommendation