

Request for Decision**United Townships of Head, Clara & Maria Municipal Council****Type of Decision**

Meeting Date	Friday, February 22, 2013			Report Date	Wednesday, February-13-13			
Decision Required		Yes	X	No	Priority	X	High	Low
Direction Only		Information Only		x	Type of Meeting	X	Open	Closed

REPORT TITLE

Clerk's Report – #22/02/13/801-A
Ontario Landowner Association Meeting

On Saturday, February 9, 2013 Noella and I attended the Councillor Information session presented by the Renfrew Chapter of the Ontario Landowner Association in Cobden. The three main presenters included: Jocelyn Township Reeve Mark Henderson; Ottawa Human Rights Lawyer Terrence Green of Green and Associates Law Offices and Elizabeth Marshall, Director of Research Ontario Landowners Association. We have included information made available at the presentation for your review. A summary follows.

Reeve Mark Henderson, Jocelyn Township

Reeve Henderson, although he begged to differ was an exceptional speaker who told his story of being a disgruntled builder who decided to learn a little about the process and became involved in reform eventually becoming the Head of Council. Jocelyn Township is quite similar to HCM in that it is rural, has only about 200 full time residents with a much larger seasonal population and property owners (total voters approximately 1000).

In brief Reeve Henderson explained his Council's plan to ratify a "recall by-law" by the voters, not amalgamate even though they were told they had to, and to move to have his Council protect property owners' rights. Their Council has passed these resolutions and is planning to have a vote in the summer in which electors who voted at the last election can again come out to vote on the questions at hand. If 2/3 of the eligible voters ratify this vote, no future Council can remove those rights. I have included a magazine and newspaper article to provide additional information. Definitely food for thought.

Mr. Terrence Green, Green and Associates Law Offices

The next speaker was Mr. Terrence Green of Ottawa. He has successfully challenged in court various cases concerned individual property rights and methods of obtaining evidence. Of note is the Rideau Valley Conservation Authority's use of air craft obtained photos to defend building permit applications. Three cases were dismissed due to lack of warrants for photographic evidence obtained via air.

Mr. Green spoke of the role of the Council member and their individual liability. He referenced the current AMO sessions being offered on that specific issue. He explained that each Council member must perform his/her own due diligence, that relying on staff to perform all research without performing their own due diligence may result in a position of liability if the resulting policy violates individual rights.

He explained how a municipality has an obligation and responsibility to ensure that their by-laws do not contravene any Federal and provincial law. He questioned the ability of staff to ensure that ALL legislation has been considered due to the sheer volume.

He spoke to the importance of continued staff education and the obligation of Councils to ensure that staff receive training and obtain understanding of all areas they work with. He spoke to the use of information and training being provided by AMO and other associations. Staff can only be

as good as the information that they receive. If they are being provided misinformation, they will advise actions which may contravene legislation.

He then spoke to property rights and the original Crown Patents. He expressed that the property rights were given to the original owner, assigns, heirs etc. and cannot be rescinded by any other legislation or level of government. (This is the current goal of OLA, to have property rights entrenched in the Charter.) *Mr. Greens accompanying notes are attached.

Elizabeth Marshall, Director of Research Ontario Landowners Association

Ms. Marshall's main points included the importance of property owners in obtaining their Crown Patents to preserve their rights and contest municipal and provincial regulation concerning lands.

She spoke to the liability of individual Council members and the illusion of protection through liability insurance. She spoke to the volumes of legislation which she suggests is not valid as the provincial and federal governments have surpassed their own authority.

She contested the rights and authorities of By-Law Enforcement Officers and Building Officials to enter on private land for investigation purposes.

Ms. Marshall also spoke to the quality and availability of information being provided by the upper level governments to the municipally elected officials, their staff or their advisors again questioning the authority of the province.

She spoke to how all of the legislation needed to be read in concert and each piece as a whole document and not specific/individual parts. She then spoke to how the Municipal Act provided municipalities with "natural person powers" in clause 9 and as such did not have the authority to do anything more than any other individual effectively dismissing any other legislation or parts thereof. ?????

She questioned AMO and their ability to require "Official Plans". (Which they don't?)

Clerk's comments.

Overall the session was quite informative.

It is my opinion that Ms. Marshall seemed to be attempting to incite Councillors to contest the power and authorization of the provincial and federal governments in many different areas. Upon review, I found that some of the information within her report is simply incorrect (AMO does not require Official Plans in order to transfer Gas Tax Funding). Other statements are generalized and too limited in their scope. (The recommendation to ignore all provincial and federal legislation aside from The Constitution, the British North America Act and the Common Law.) Without doing the research to support statements presented (and either prove or disprove them) it would not be recommended to rely on the information contained in her report. It would be quite misleading to anyone who has not cross referenced her statements and references.

Mr. Henderson stated at the beginning of his presentation that he was a strong proponent of doing the research yourself; of ensuring that what you have been told is accurate. He explained that he personally and his staff have researched the appropriate legislation concerning the positions he and his Council have taken not relying on statements made by others.

Mr. Green seemed to back up his statements with supporting legislation and precedent and is a successful lawyer currently practicing in Ottawa.



The ONTARIO LANDOWNERS Association

WINS!

Lambton Landowners – stopped the County tree cutting by-law by informing County Council that the Council had not been informed of all of the Acts that the draft by-law would be in violation of. They presented to the Council the OLA paper “Tree Cutting By-laws: What Municipal Councils Need to Know.”

Niagara Landowners – encouraged West Lincoln to pass a resolution for a moratorium on wind turbines.

- West Lincoln has removed a site alteration by-law
- West Lincoln has removed “warrantless” entry

Terry Green and Associates – LANDOWNER MEMBERS

David White v. Niagara Pen. Con. Authority– completely suspended sentence due to new information presented by Terry during sentencing.

Dawson Hill v. Rideau Valley Con. Authority– all charges dismissed due to lack of warrants for photos taken by fly over.

Michael Erland v. Rideau Valley Con. Authority – all charges dismissed due to lack of warrants for photos taken by fly over.

Jason Loraine v. Rideau Valley Con. Authority – co-charged with Michael Erland, all charges dismissed same as Michael.

Mark Barnsfield v. Niagara Pen. Con. Authority – self represented and won due to lack of warrants. Mark is a member of the Niagara Landowners Association.

Jim Moyer v. Georgian Bluff Township – Property Standard by-law, all his property had been cleared of his possessions. He won \$52,000 plus removal of costs from his property taxes and by-law inspector is to know and understand the limit of his authority and the Township had committed trespass.

Reeve Mark Henderson and the Council of Jocelyn Township - Passed a by-law upholding patented private property rights of the private property owner.
- passed a by-law inclusive of municipal recall and this by-law is to be affirmed by 2/3 of the electorate in Jocelyn Township sometime in July, 2013.

Stormont Dundas Council – Passed a by-law expressing that there will be no implementation of language by-laws, in regards to signage restricting which language shall be displayed on commercial signs and there will be no demand for signs to be in both French and English.

WINS – CONTINUED

Page 2

The Department of Fisheries – Through committee meetings with the OLA, DFO passed legislation that the DFO would remove the DFO interest of fish in ditches, meaning that a person would not have to worry about a few tadpoles creating an environmental strangle hold.

Mississippi Valley Conservation Authority – Tom Black, Jeff Bogearts and Terry Green had a meeting with the M.V.C.A. explaining that as they are only a corporation they cannot implement enforcement on private property. They presented the OLA report "Conservation Authorities: Legislation Out of Control." And shortly thereafter the M.V.C.A. were in a newspaper article expressing that they could not flood private property.

Elizabeth Marshall, Director of Research for the OLA was elected to the Board of Directors for the Canadian Justice Review Board.

Tom Black, OLA President was appointed to the Red Tape Committee for Queen's Park, representing the OLA.

Bill O'Brien, OLA Executive and President of the Lambton L.A. in conjunction with Cindy Moyer, President of the Huron Perth L.A. were successful in fending off the OSPCA during the raids on the Amish in their area. The Amish contacted them as there were 65 OSPCA agents accompanied with police searching for non-existent puppy mills on the Amish farms. The OSPCA had received a tip. Jack MacLaren was extremely supportive of Bill and Cindy and he presented a bill at Queen's Park, limiting the authority of the OSPCA. His bill was supported by the Pig Farmers of Ontario, a number of municipalities, including Leeds/Grenville, Jocelyn Township, etc.

Something to remember:

CRIMINAL CODE OF CANADA R.S.,

Ownership

588. The real and personal property of which a person has, by law, the management, control or custody shall, for the purposes of an indictment or proceeding against any other person for an offence committed on or in respect of the property, be deemed to be the property of the person who has the management, control or custody of it.

"document of title to lands"

"document of title to lands" includes any writing that is or contains evidence of the title, or any part of the title, to real property or to any interest in real property, and any notarial or registrar's copy thereof and any duplicate instrument, memorial, certificate or document authorized or required by any law in force in any part of Canada with respect to registration of titles that relates to title to real property or to any interest in real property;

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Land rights group at odds with founder

By Monte Sonnenberg, Simcoe Reformer

Sunday, March 18, 2012 6:03 PM EDT

The Ontario Land Owners Association and its associated chapters are scrambling now that founding president Randy Hillier has parted company with the group over the issue of Crown land patents as a guarantee of property rights.

A fundamental disagreement has emerged between the Ontario Landowners Association and its founding president.

OLA was shocked recently when Randy Hillier, MPP for Lanark-Frontenac-Lennox & Addington, released a letter saying that Crown land patents are a legal dead end when it comes to guaranteeing property rights.

Hillier's remarks have elicited rebukes from the OLA membership and a statement from president Tom Black that OLA stands by its policy.

"From the OLA perspective, the Land Patent/Crown Grants are legal contracts that are still valid in today's modern world," Black said in a news release. "The Ministry of Natural Resources still takes our money and sends us certified copies that state, in fact, that the grants' duration and effects are 'forever.'"

OLA is heavily invested in Crown patents as a bulwark against government interference in the use of private property. OLA representatives have touted Crown patents as such at numerous public meetings across the province in recent years, including a well-attended gathering in Langton in 2011.

A land patent is the document that formally transferred ownership of land in Ontario from the Crown to its first private owner. Most date from the late 1700s and early 1800s. The patents stipulated the conditions under which the new owners could use their property.

The vast majority of these documents pre-date the formation of the Province of Ontario and Confederation. As such, OLA and some in the legal community maintain that they supersede the authority of Queen's Park and Ottawa. The debate has wide-ranging implications for a host of laws, including the Building Code, municipal zoning regulations, the Endangered Species Act, regulations governing the development of privately-owned wetlands, and tree-cutting bylaws among others.

Thursday, Hillier noted that Crown patents have failed as a defence in two recent court cases that challenged the authority of senior governments to regulate private land. Hillier likened the Crown patent defence to "quicksand and mythical fairy tales."

"People who think there is a silver bullet are misguided and misinformed," Hillier said. "I don't want people to think I'm supportive of a defence that doesn't exist and will lead to greater injury to them if they continue to use it in a court of law."

Some on OLA's website Rural Revolution are not pleased with Hillier's position. Posters have used words like "sellout" and "disgusting." Another pointed out that the Canadian Charter of Rights and Freedoms explicitly safeguards all rights that were in place when the document was adopted in 1982.

John Van Daele of Courtland, a past president of the Oxford-Norfolk-Elgin Landowners Association, said Hillier's intervention could cause problems for the organization.

"I've always stood by Randy," Van Daele said Thursday. "He's a smart cookie."

If he doesn't support it, it doesn't look good."

Hillier says the only way to protect property rights in Ontario is to have them explicitly enshrined in the constitution. Proper legislation would champion the right to enjoy property while guaranteeing fair and just compensation if it has to be expropriated.

Hillier noted that Canada along with Australia are the weakest of all western democracies when it comes to the protection of property rights. Enjoying the highest ratings, he added, are the Netherlands and Israel.

Hillier denies he has spoken out on the issue due to pressure from his colleagues.

"Asking the question is ridiculous," he said. "I am my own man with my own thoughts and my own opinions. That will never change. There has been absolutely no pressure on me from the Progressive Conservative party."

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Commodity Cash Prices

A tale of two municipalities

December 13, 2012

By:

This is a tale of two municipalities; one which respects the private property rights of its citizens and another that, well... maybe could use some instruction when it comes to enacting by-laws.

In October, Mark Henderson, Reeve of Jocelyn Township, St Joseph Island, near Sault Ste. Marie, and his council passed a motion that essentially states that the municipality will respect private property rights as stated in the original contract between the Crown and the landowner (i.e. the Crown Land Patent.) Mr. Henderson and his council are to be congratulated and commended for their courage.



Reeve Mark Henderson

Contrast this with the council in Lambton County which amended its tree cutting bylaw in January 2012, and then in October, not 12 months later, sought to revise it again and make it even more restrictive. Entitled the Woodlot Conservation By-law, the planning department noted that this proposed update aligned with the county's notion of "green initiatives" such as the protection of woodlots. This they would do by including restrictions, permits and fines on private woodlots. For example, landowners would be restricted to harvesting no more than 20 full cords of fire wood per year for their own personal use. Woodlot owners would also be required to obtain a permit to sell or exchange wood.

Now, in considering this lofty objective of protecting woodlots, we should keep in mind that Ontario has over 17 million hectares of forest (equivalent in size to the landmasses of Germany, Italy, and the Netherlands combined) and that 90% of these forested lands are Crown land which is provincially owned and managed. Why then is it that lawmakers are so interested in putting restrictions on private property?

The County stated that they have the authority under the Ontario Municipal Act to develop a by-law that includes restrictions, permits and fines on woodlots. While it is true that municipalities may pass by-laws for the management of public lands that they own for forestry use and may issue permits for those purposes, they may not do the same for private property. This position is clearly stated in "Tree Cutting By-laws: What Municipal Councils Need to Know". The Supreme Court of Canada states that when a piece of legislation is referred to in one piece, then both pieces must be considered together to ensure the legislation is being implemented and interpreted properly.

Since the Ontario Municipal Act refers to the Forestry Act, both must be read together. The Forestry Act clearly states that municipalities may enter into agreements with landowners, and only under this agreement can the municipality and the landowner prescribe conditions for the cutting of timber. There are other laws such as the Public Lands Act that should be read when enacting tree cutting by-laws.

In Lambton County there was much opposition to the proposed new by-law. At a public consultation meeting, the Lambton-Middlesex Landowners Association presented the document "Tree Cutting By-laws: What Municipal Councils Need to Know", and council, to their credit, have withdrawn the proposal. For a full discussion on "Tree Cutting By-laws: What Municipal Councils Need to Know", please see:

www.carletonlandowners.com/yourrights.html

(Reprinted with permission from The Landowner Magazine, Oct/Nov 2012) 0

Comments

Anonymoussaid on Wed 9th Jan, 2013 at 12:07:

"Ontario has over 17 million hectares of forest and that 90% of these forested lands are Crown land which is provincially owned and managed. Why then is it that lawmakers are so interested in putting restrictions on private property?" Consider the fact that Essex County has less than 10% tree cover. If you had the opportunity to see for yourself, as I have, how polluted the creeks and streams are in that area, you may understand. Clean water is only one issue...why?? Get with it!

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NEWS FLASH



Recall Bylaw good for democracy, Reeve says

Jocelyn Township adopts bylaw that allows voters to force politicians out of office

Jocelyn Township on St. Joseph Island, Ontario recently passed a bylaw which allows residents to force unpopular politicians out of office. They would need the signatures of two-thirds of the 500 citizens who voted in the last election.

Reeve Mark Henderson said he thinks the recall bylaw enhances democracy in Jocelyn Township. Although he doesn't expect that it will ever be used, the fact that it is in place if ever needed, is reassuring.

Sudbury Mayor, Marianne Matichuk's opinion is that there should be recall legislation for all politicians in Canada and Reeve Henderson agrees. Unfortunately, all 12 Sudbury city councillors did not and voted down Mayor Marianne Matichuk's proposal to allow citizens to recall unpopular politicians.

One councilor was concerned that people would use the legislation if they wanted to get back at you for something they weren't happy with but Henderson said he isn't worried about recall being used as a political weapon. In a small community, most people are connected through friendship and family ties so communication is ongoing and hopefully, just because you have differences of opinion, it doesn't mean democracy is not working.

Henderson expressed hope that other municipalities, as well as the provincial and federal governments, will soon pass recall laws as well.

Beach By-Law NOT ENFORCEABLE on Private Property

Separate Legal opinions tell councillors that bylaw does not apply to private property

The town of South Bruce Peninsula found themselves in a dilemma recently after they passed a 'Beach By-Law 64-2004) which limited what people could do on Sauble Beach. The by-law prohibited motorized vehicles, generators, barbecues or any cooking device, horses, walking a dog during certain times of the year, damaging grass or plants, tents or camping, alcohol and campfires.

This bylaw did not sit well with private property owners who complained that they have endured all sorts of harassment and ongoing interference with their families enjoyment and use of their private beach. In fact, one man built a locked gate to keep people off his section of the beach.

Neighbours from a nearby subdivision called Pine Grove Park claimed that they had the authority to direct what may happen on the privately owned section of the beach and one man insisted that the mayor enforce the bylaw on those people who were driving on the beach.

The town decided to get two legal opinions from their solicitors, one from Donald Greenfield dated November 19, 2009 and one from Steven O'Melia dated October 15, 2012.

Both legal opinions explain that the Dynamic Beach By-Law is not enforceable on private properties unless express permission is received from the private property owner.

As a result of careful consideration of both legal opinions, Council has accepted the advice of the two Town solicitors and will not be enforcing the Dynamic Beach By-Law on private property at Sauble Beach.

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NEWS LOCAL

Reeve to address Ottawa Valley meeting that examines rights of municipal councils, implementation of provincial legislation

By Donna Schell
Monday, January 28, 2013 7:06:33 EST PM



Jocelyn Township Reeve Mark Henderson addresses a meeting hosted by the Renfrew Landowners Association Feb. 9.

JOCELYN TOWNSHIP - Reeve Mark Henderson has been invited to speak to municipal leaders on the rights of municipalities

regarding provincial legislation.

"I believe (Renfrew Landowners Association chair) Donna (Burns) heard my interview on an Ottawa radio station regarding motions Jocelyn (Township) council passed in regards to three different items," Henderson said.

The Feb. 9 gathering in Cobden, Ont., is hosted by the Renfrew Landowners Association, in conjunction with the Ontario Landowners Association.



In a recent telephone interview, Henderson said among the issues he intends to share is the recall motion, which he hopes to pass as an affirmation bylaw later this year to cement the bylaw that council has already passed.

"Under the law, council can pass bylaws, but what I want to do is have it passed by the members of the municipality," Henderson said. "Once they pass it, then council will never be able to overrule it. The whole idea of this is to put the power back in the hands of the people."

Written into the Corporation Act, Henderson said, the power has been put in the hands of the people.

Also to be discussed at the OLA is the entrenching of property rights within municipal bylaws, such as the rezoning bylaw and Crown lands patent.

Henderson has reviewed and researched information presented to him by Liz Marshall, director of Research for the Ontario Landowners Association and Terrence Green of Green & Associates Law Offices.

This past year, Marshall was elected to the board of directors of the Canadian Justice Review Board due to her studying various pieces of legislation and uncovering a number of conflicts in certain acts, as well as her knowledge of property rights and letters patents.

Marshall has worked closely with Ottawa lawyer Terrence Green, familiar with municipal law. Together, they have created several reports for landowners and the municipalities.

The mandate of the Ontario Landowners Association is to educate landowners on the protection of private property rights, from excessive legislation and over regulation.

Burns, chair of the Renfrew County chapter of the LOA, said the seminar idea came about from a speech prepared by Marshall at a recent annual general meeting.

"As a result of reading the 387 pages of the Municipal Act that (Marshall) states is drafted up in a way that it is near impossible for most to understand it, let alone remember what they have read within it, she expressed concern that our elected officials may have been unfairly misled with information from their advisers," Burns said. "It was suggested at that meeting that the OLA should make an effort to try and educate our municipalities on information that she has uncovered through her research."

Rights of municipal councils and the implementation of provincial legislation is foreign territory to some in government, Burn said.

"It would seem that some townships have passed certain bylaws which have put municipalities at risk of civil litigation for trespass," Burns said. "These situations have arisen due to provincial legislation or regulation, which conflict with the implementation of Official Plans and municipal bylaws."

Burns added the OLO has researched a number of acts, which must be read as one document prior to the implementation of said bylaws.

The seminar is strictly for education purposes, Burns added, and will be presented with the "sincerest respect for our elected officials."

It is hoped municipalities will review and research information presented themselves.

"That is all we are hoping for," she said.

"Since we are all landowners and are all concerned about our future and the future of our children, it is important that we work together to make it a better place to live," Burns said. "Our county chapter of the Ontario Landowners Association (is) the first to take this initiative to educate all the municipalities in Renfrew County."

Also attending the OLA meeting from Jocelyn Township will be Coun. Ches Wallace.

At its Jan. 8 meeting, during which Henderson was absent, the issue was raised; not everyone is in support.

Lutes, who said he was not asked to attend the information session, asked fellow councillors what they thought about being involved in the Ontario Landowners Association.

"My belief is not that it is not pertinent, but on the fringe, a group of people who struggle with larger municipalities with cities that are moving out," Lutes said. "These larger cities expand the municipal laws ... Changes do infringe on people's rights."

Lutes said it is not an issue with Jocelyn.

"Under the Municipal Act, we have something in place. If we don't agree, they can take property," he said. "They don't want to do that, they try and negotiate."

Lutes said he believes the OLA is a fringe group with some merit.

Council has fought the Official Plan and zoning bylaws, accessed unopened roads and will seek a referendum this summer.

↘ "As elected people, we have the final say and have to try and do what we can to make life easier for our constituents ... for everyone, not just a few that have private interest."

Councillor and acting reeve Ken Ward added, "What is good for one is good for all."

"That's not necessarily (true)," Lutes said.

Wallace said the idea of listening to "big brother" in Toronto is not always good.

"Sometimes it's fine," Wallace said. "Sometimes it suits our people in our community, other times it doesn't. It's not a dictatorship ... If it was, we would have to do it."

Lutes said he believes what the province lends its knowledge tools to each municipality.

"We have to adopt them and look at what is good of these guidelines they are giving us," Lutes said. "They are looking at a situation with larger municipalities than we will ever see."

Ontario leaves openings, Lutes added, that if these guidelines don't work, the province should explain why.

Wallace disagreed, contending council has to tell the province why such guidelines fail.

"On the other hand, we can't say, 'Screw you.' We have to work with them to come up with guidelines, and I believe that is the way to do it," Lutes said.

Rural areas, Coun. Janet Callahan said, need to come on board as a group to adjust those guidelines to the needs of their community.

Callahan said council must address the issues that are brought before the clerk and deputy clerk and what works and what, if anything, needs to be changed.

"We are here for the people and what they want and it's what we try and do," Ward said.

Reader's comments »

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**Notes accompanying Terrance Green's February 9, 2013 address
to the
Renfrew Landowners Association's Information Seminar for
Municipal Officials**

Definition of a Municipality: "A legally incorporated or duly authorized association of inhabitants of limited area for local governmental or other public purposes. A body politic created by the incorporation of the people of a prescribed locality invested with subordinate powers of legislation to assist in the civil government of the state and to regulate and administer local and internal affairs of the community." (Black's Law Dictionary, 6th ed.)

"Legally incorporated" means that the municipality is a corporation, which is "An artificial person or legal entity created by or under the authority of the laws of a state. An association of persons created by statute as a legal entity. **The law treats the corporation itself as a person which can sue and be sued.** [emphasis added] The corporation is distinct from the individuals who comprise it." (Black's Law Dictionary, 6th ed.)

Legal Basis for Municipality's Actions

All authority for a municipality to act, comes from the province in which it is located. Councillors should note that:

"A fundamental consideration is the constitutional position of local government. The Constitution Act, 1982 (formerly the British North America Act, 1867) states that provincial governments have the exclusive right to pass laws respecting municipal institutions. Because municipalities are provincial creations, generally they only do what they have been authorized to do by the provincial government. A number of general consequences follow from this:

- A provincial government would give a municipality only those powers that it may exercise itself within the division of federal and provincial powers under the Constitution.
- A municipal bylaw may not override a conflicting provincial statute, and a bylaw that was valid when passed may become invalid if an overriding provincial statute is later enacted.
- If a municipality takes action for which it does not have statutory authority, or that exceeds the limits of its authority, the courts could quash the action as being "*ultra vires*", i.e., beyond the powers of the municipality."

(The Municipal Councillor's Guide 2010, p.21)

The Ontario enabling statute (ie law that permits municipalities to act):

Municipal Act, 2001. There are 474 sections in this act, covering everything from codes of conduct to liability of the municipality. You may consult it at

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_01m25_e.htm

The *Municipal Councillor's Guide 2010*, says:

“The Municipal Act, 2001 provides municipalities with broad permissive powers to give them flexibility in meeting their communities’ expectations and fulfilling their responsibilities.

A municipality has broad permissive powers to pass bylaws respecting the following matters:

1. governance structure of the municipality and its local boards
2. accountability and transparency of the municipality and its operations and of its local boards and their operations
3. financial management of the municipality and its local boards
4. public assets of the municipality acquired for the purpose of exercising its authority under this or any other act
5. economic, social and environmental well-being of the municipality
6. health, safety and well-being of persons
7. services and things that the municipality is authorized to provide
8. protection of persons and property, including consumer protection
9. animals*
10. structures, including fences and signs*
11. business licensing *

**For two tier governments, these powers are spheres of jurisdiction and not broad permissive powers. Single tier municipalities have all eleven broad permissive powers. Municipalities in two tier systems have the first eight broad powers. . . .”*

(The Municipal Councillor's Guide 2010, p. 24)

Other laws that may affect your municipality:

- (1) The *Canadian Charter of Rights and Freedoms*, found in Part 1 of the *Constitution Act*, 1982, is relevant at all levels of government
- (2) *Canada Mortgage and Housing Corporation Act* (a federal statute)
- (3) *Planning Act*
- (4) *Line Fences Act*
- (5) *Building Code Act, 1992*
- (6) *Police Services Act*
- (7) *Fire Protection and Prevention Act*
- (8) *Safe Drinking Water Act, 2002*
- (9) *Accessibility for Ontarians with Disabilities Act, 2005*
- (10) *Emergency Management and Civil Protection Act*
- (11) *Ontario Works Act, 1997.*

Please Note: the above list of Acts is not exhaustive.

Other Sources of Law:

There are also **Regulations**, which often provide details on steps to be taken to apply an act or a portion thereof.

Boards and Tribunals, such as the Ontario Municipal Board, Ontario Labour Relations Board, the Landlord and Tenant Board, the Workplace Safety and Insurance Board, the Assessment Review Board and the Conservation Review Board render decisions that may affect your municipality.

Case Law – decisions rendered in court cases – have similar importance to tribunal decisions and cannot be overlooked.

Please Note: do-it-yourself interpretation of legal materials is risky. Most times, consulting the municipal solicitor is much less expensive than engaging in a lawsuit that results from a lack of due diligence, or a misunderstanding of, and subsequently disobeying the law.

Municipal Staff:

The Municipal Act, 2001 section 227 sets out the role of staff:

“227. It is the role of the officers and employees of the municipality,
(a) to implement council’s decisions and establish administrative practices and procedures to carry out council’s decisions;
(b) to undertake research and provide advice to council on the policies and programs of the municipality; and
(c) to carry out other duties required under this or any act and other duties assigned by the municipality.”

Staff is there to assist and to carry out assigned duties of the municipality. Note, however, that staff members are only as good as the training that they have received. The municipality should make every effort to ensure that staff are up-to-date on all policies and procedures of the municipality, any directives from provincial government departments that may have a bearing on municipal business, and are aware of what they can, and cannot do, legally.

The *Municipal Councillor’s Guide 2010* says:

“Continuing education is increasingly important to municipal staff and councillors. Reflecting this trend, many municipalities have developed a detailed policy on training and educational opportunities for staff. Training, development and networking opportunities are provided through:

- courses run by colleges and universities
- conferences, seminars and meetings delivered by professional associations
- books and journals that are designed for municipal government; and
- workshops, information sessions and conferences offered by the Ministry of

Municipal Affairs and Housing, the Association of Municipalities of Ontario (AMO), the Association of Municipal Clerks and Treasurers of Ontario (AMCTO), the Ontario Municipal Management Institute (OMMI), the Ontario Building Officials Association (OBOA) and other well-recognized municipal organizations"

(The Municipal Councillor's Guide 2010, p. 10)

Invaluable Resources:

E-Laws Website:

www.e-laws.gov.on.ca

Municipal Councillor's Guide, 2010:

www.mah.gov.on.ca/Page5030.aspx

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- BLEO
By-laws at place officers - police Services Act
- warrants - required. - how to get one.
- Councillor liability - need to follow due diligence.
if they rely on staff to come up w/ wording & pass
w/o looking at it themselves - then they can
be held liable if it violates rights.
- then - have resp. to ensure by-laws don't contravene.
- prov. Fed. constitution - Charter - common law
- Bill of Rights - Magna Carta - English com law.
- Mun Guide - education of staff - obligation to make sure staff receive training
& understanding of area they are working on.
- have obligation to make sure staff have required training.
- renew patents - contract between monarch & subject granting land to subject.
is it valid today? - when monarch issues - has to give to revolve cuts there for
eternity - passed on forever. - all uses respecting land belong to person who
also right to go on private property? No!