



MURALS PROJECT MANAGEMENT COMMITTEE MEETING
Thursday, February 27, 2020 at 5:00 p.m.
Scoop Lewry Room, 2nd Floor, City Hall

TO: MEMBERS OF THE MURALS PROJECT MANAGEMENT COMMITTEE

Norma Westgard
Frances Friesen

Mervin Yohnke
Isobel Landin

Heather Eby

AGENDA

1. Call to Order
2. Appointment of Chairperson and Vice-Chairperson
3. Adoption of Agenda
4. Adoption of Minutes – December 12, 2019
5. New Business
 - 5.1 Review of Bylaw No. 5375, Bylaw No. 4381, Review of Conflict of Interest (Advice for Members of Municipal Boards and/or Committees), and the Resolution Regarding Absenteeism of Board Members
 - 5.2 Chinese Mural Location
 - 5.3 Mural Replacement
 - 5.4 2020 Updated Murals Repair Report
6. Business Arising from the Minutes
 - 6.1 Main Street Mural
7. Correspondence/Information
8. Financial Report/Invoice Payments
9. Outstanding Items
10. Next Meeting and Adjournment

PLEASE ADVISE BY EMAIL cclerk@moosejaw.ca OR CALL Pearl at 306-694-4424 IF YOU ARE UNABLE TO ATTEND THIS MEETING

“Information”

to Council January 13, 2020



MURALS PROJECT MANAGEMENT PUBLIC COMMITTEE MINUTES

**December 12, 2019 at 5:00 p.m.
Scoop Lewry Room, 2nd Floor, City Hall**

PRESENT: Norma Westgard, Chairperson, Citizen-at-Large
Isobel Landin, Citizen-at-Large
Mervin Yohnke, Citizen-at-Large
Erin Westgard, Citizen-at-Large

ABSENT: Councillor Heather Eby, Council Representative
Frances Friesen, Citizen-at-Large

ALSO PRESENT: Pearl Anderson, Recording Secretary

PART 1 - Call to Order

Norma Westgard, Chairperson, called the meeting to order at 5:10 p.m.

PART 2 – Adoption of Agenda

Moved by Isobel Landin

THAT the agenda be adopted with the following addition:

- Part 4.3 – 2019 Murals Repair Report and Murals Report Sheets

Carried.

PART 3 – Adoption of the Minutes – October 24, 2019

Moved by Erin Westgard

THAT the minutes of the Murals Project Management Committee dated October 24, 2019 be received as presented.

Carried.

PART 4 – New Business

4.1 Mall Display Contract

The Murals Project Management Committee murals pamphlet display contract with the Town'n Country Mall has been renewed to December 2020.

4.2 Mural Removal – 240 High Street West

The new owners of the property located at 240 High Street West requested that the Chinese Mural on the side of the building be removed.

Moved by Erin Westgard

THAT approval be granted to remove the Chinese Mural on the side of the building located at 240 High Street West; and further

THAT the Chinese Mural be stored at the City's Natatorium.

Carried.

4.3 2019 Mural Repair Report and Mural Repair Sheets

The 2019 Murals Repair Report and the Murals Repair Sheets for Fire Watch, National Light and Power, Hopes and Dreams, Air Force Blue, Last Dambuster and Stormin Main Street, as prepared by Grant McLaughlin, were circulated to Committee members.

Moved by Merv Yohnke

THAT the 2019 Murals Repair Report and the Murals Repair Sheets for Fire Watch, National Light and Power, Hopes and Dreams, Air Force Blue, Last Dambuster and Stormin Main Street, be received and filed.

Carried.

PART 5 – Business Arising from the Minutes

5.1 Results of Special Council Meeting

Circulated was an email dated December 11, 2019 from Derek Blais, Director, Parks & Recreation, advising that the Murals Project Management Committee budget request of \$13,300 in 2020 was approved during the City's budget deliberations.

5.2 Main Street Mural

The matter was tabled to the next meeting.

PART 6 – Correspondence/Information

6.1 Photos from Don and Gail Cox, Duncan, British Columbia

Considered was a letter dated August 15, 2019 from Don & Gail Cox, former residents of Moose Jaw, with photos that Mr. Cox had taken at the same location each day at the same time (12:15 p.m.) from Day 2 to Day 11 while the mural “Remember Old 80” was being painted. Three photos of “The Opening Day Parade” mural dedication ceremony were also included.

Moved by Erin Westgard

THAT the letter dated August 15, 2019 and attached photos from Don & Gail Cox, be received and filed.

Carried.

6.2 Correspondence Regarding Special Council Meeting Jim Puffalt, City Manager and Derek Blais, Parks and Recreation Director

Moved by Isobel Landin

THAT the correspondence regarding the special budget meeting from Jim Puffalt, City Manager, and Derek Blais, Parks and Recreation Director, be received and filed.

Carried.

PART 7 - Financial Report/Invoice Payments

Moved by Merv Yohnke

THAT the financial update be accepted as presented.

Carried.

Moved by Erin Westgard

THAT approval be granted to the allocation of funds in the amount of \$4,796.70 plus GST to Grant McLaughlin for 2019 murals repairs.

Carried.

PART 8 – Next Meeting and Adjournment

The next regular meeting of the Murals Project Management Committee is scheduled for **February 27, 2020 at 5:00 p.m.** or at the call of the Chair.

Moved by Merv Yohnke
THAT the meeting now adjourn.

Carried.

The meeting adjourned at 5:30 p.m.

Norma Westgard
Chairperson

<https://citymj.sharepoint.com/sites/Depts/clerks/Shared Documents/5. Boards & Committees/BOARDS & COMMITTEES - 2000/-10 Murals Project Management Committee/2019/Minutes/12.12.19 Murals Minutes Draft.docx>



CITY OF MOOSE JAW

**Office
Consolidation**

Murals Project Management Committee Bylaw

Bylaw No. 5375

Date of Passage June 13, 2011
(effective date September 1, 2011)

Including Amendments to December 16, 2019

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

This Bylaw has been consolidated under the authority of the City Clerk. It represents proof, in absence of evidence to the contrary of:

- (a) the original bylaw and of all bylaws amending it; and**
- (b) the fact of passage of the original and all amending bylaws.**

AMENDMENTS

DATE PASSED

FORCE/EFFECT

Bylaw No. 5607

December 16, 2019

January 1, 2020

**BYLAW NO. 5375
MURALS PROJECT
MANAGEMENT COMMITTEE BYLAW**

=====

**THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS
FOLLOWS:**

Definitions

1 In this Bylaw:

(a) “**Code of Ethics Bylaw**” means Bylaw No. 4381, A Bylaw of the City of Moose Jaw to Adopt a Code of Ethics for Officials and Employees and Persons Appointed to Boards, Committees and Commissions of the City of Moose Jaw.

(b) “**Committee**” means the Murals Project Advisory Committee.

(c) “**Procedure Bylaw**” means Bylaw 5176, A Bylaw of the City of Moose Jaw Governing the Proceedings of City Council and any Committees Established by City Council for the Administration of the Business of City Council.

Establishment of Committee

2 Pursuant to section 55 of *The Cities Act*, City Council continues the Murals Project Management Board under the name Mural Project Management Committee.

Duties/Functions

3 Acting on behalf of the City, the Committee shall manage, control and supervise the painting of the two dimensional paintings of scenes depicting the City’s early history on any exterior wall of any building, which paintings are known as the Murals; which management, control and supervision includes:

(a) choice of locations for the Murals;

(b) approval of locations for Murals; and

(c) repair and maintenance of the Murals.

Member Eligibility and Appointment

4(1) The Committee shall consist of the following members:

- (a) one member of City Council; and
- (b) seven persons residing in Moose Jaw.

(2) All Committee members shall be appointed by, and serve at the pleasure of, City Council.

(3) In making appointments pursuant to clause (1)(b), City Council shall consider residents who are interested in promoting the painting of murals on certain buildings in the City.

(4) For 2020 only, the appointments of one-half of the Committee members shall be for one-year terms beginning January 1, 2020 and expiring December 31, 2020, and the appointments of the other half of the Committee members shall be for two-year terms beginning January 1, 2020 and expiring December 31, 2021.

(Bylaw No. 5607)

(5) Following the initial appointments to the Committee under subsection (4), the Committee member's appointments shall be for two year terms.

(6) A Committee member's appointment will automatically terminate when:

- (a) in the case of a member of City Council, the member ceases to be a member of City Council;
- (b) a member appointed pursuant to clause 4(1)(b) ceases to be a resident of the City;
- or
- (c) the member's seat becomes vacant through resignation or death.

(7) On the recommendation by the Committee, City Council may terminate a Committee member's appointment:

- (a) if the member fails to attend three consecutive Committee meetings without, in the Committee's opinion, a reasonable excuse;
- (b) when there is permanent incapacity of a member; or
- (c) for cause.

(8) Where a Committee member's appointment expires or is terminated under this section, City Council may appoint another person to fill the vacancy for the remainder of the term of the member being replaced.

(9) In the event that City Council is unable to appoint a new member to the Committee before a member's appointment expires through the passage of time, the member's appointment is automatically extended until a new member is appointed.

Chair

5(1) At the Committee's first meeting in January of each year, the Committee members will elect one of its members to be the Chair of the Committee and elect another member to be the Committee's Vice-Chair.

(Bylaw No. 5607)

(2) The Chair shall preside over all Committee meetings at which the Chair is present, and the Vice Chair will preside over the Committee Meetings or portions thereof when the Chair is not present.

(3) When neither the Chair nor the Vice-Chair is present at a Committee meeting or portion thereof, the Committee members who are present may elect a member to preside over that meeting or portion thereof.

Meetings and Procedure

6(1) The Committee shall hold its meetings at the time and place determined by the Committee.

(2) Meetings in addition to those determined under subsection (1) shall be at the time and place determined by the Chair, except for the months July and August.

(Bylaw No. 5607)

7(1) The Committee will conduct its proceedings in accordance with the Procedure Bylaw.

(2) Notwithstanding subsection (1), the Committee may adopt general rules of procedure as long as they are not in conflict with the rules of procedure in the Procedure Bylaw.

Conflict of Interest

8 The Committee members will conduct themselves in accordance with the Code of Ethics Bylaw.

Bylaws Repealed

9 Bylaw No. 4642 is repealed.

Coming into Force

10 This Bylaw comes into force on September 1, 2011.

READ A FIRST TIME JUNE 13, 2011

READ A SECOND TIME JUNE 13, 2011

READ A THIRD TIME AND PASSED ON JUNE 13, 2011

(SGD) “Glenn Hagel”
MAYOR

(SGD) “Myron Gulka-Tiechko”
CITY CLERK

(SEAL)



CITY OF MOOSE JAW

The Code of Ethics Bylaw

Bylaw No. 4381

Date of Passage April 1, 1986
(effective date April 1, 1986)

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

BYLAW NO. 4381

A BYLAW OF THE CITY OF MOOSE JAW
TO ADOPT A CODE OF ETHICS FOR OFFICIALS
AND EMPLOYEES AND PERSONS APPOINTED TO
BOARDS, COMMITTEES, AND COMMISSIONS
OF THE CITY OF MOOSE JAW

WHEREAS public officials and employees and members of Boards, Commissions and Committees of the City of Moose Jaw have an obligation not merely to obey the law, but to act in a manner that is so scrupulous their conduct will bear the closest public scrutiny;

AND WHEREAS the private interest of public officials and employees and members of Boards, Commissioners and Committees of the City of Moose Jaw must not provide the potential for, or the appearance of, an opportunity for benefit, wrongdoing, or unethical conduct;

AND WHEREAS the Council of the City of Moose Jaw deems it desirable to adopt certain principles and guidelines for the conduct of its public officials and employees and members of its Boards, Commissions and Committees;

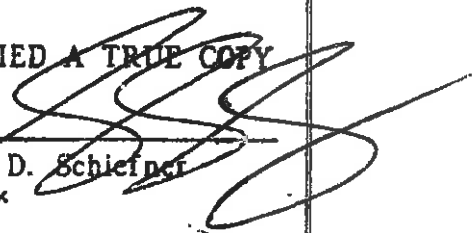
NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

1. The Code of Ethics Policy annexed to this Bylaw and marked as Appendix "1" is hereby adopted as the City of Moose Jaw's Code of Ethics for all of its public officials, employees and members of its Boards, Commissions and Committees.

2. All public officials, employees and members of the City of Moose Jaw's Boards, Commissions and Committees, shall adhere to the principles and guidelines as to their conduct outlined in the annexed Appendix "1".
3. The Code of Ethics Policy annexed to this Bylaw is hereby made a part of this Bylaw in all respects.
4. This Bylaw comes into force and effect upon the passage thereof.

PASSED AND ENACTED THIS 1ST DAY OF APRIL A.D. 1986.

CERTIFIED A TRUE COPY



Steven D. Schiefner
City Clerk

Dated JUNE 25, 2002



MAYOR



CITY CLERK

READ a first time the 1st day of April A.D. 1986
READ a second time the 1st day of April A.D. 1986
READ a third time the 1st day of April A.D. 1986

APPENDIX "1"

STATEMENT OF RESPONSIBILITY AND CODE OF ETHICS
FOR OFFICIALS AND EMPLOYEES AND PERSONS APPOINTED
TO BOARDS, COMMITTEES, AND COMMISSIONS OF THE
CITY OF MOOSE JAW

1. THE RESPONSIBILITY OF ALL PUBLIC OFFICIALS
AND EMPLOYEES OF THE CITY OF MOOSE JAW

Public officials, employees and all members of Boards, Commissions and Committees of the City shall be aware of, and follow in principle, the standards of conduct outlined in the City of Moose Jaw code of ethics (subject to the provisions of applicable collective agreements, and all applicable legislation).

2. CITY COUNCIL'S RESPONSIBILITIES

City Council shall:

- (1) make all necessary revisions, additions or deletions to the code of ethics policy in the City of Moose Jaw;
- (2) review, in consultation with the Appointed City Commissioner and the City Solicitor, reported cases of violation of the code of ethics of the City of Moose Jaw, and approve any resultant action as appropriate.
- (3) ensure, with the assistance of the Appointed City Commissioner, that all Administrative Boards, Commissions and Committees, are made aware of, and comply with the City's Code of Ethics.

3. THE APPOINTED CITY COMMISSIONER'S RESPONSIBILITIES

The Appointed City Commissioner shall:

- (1) implement and administer the City's code of ethics policy;
- (2) ensure that Department Heads inform their department employees of the standards;
- (3) advise Council on desirable revisions, additions, and deletions to the code of ethics policy;
- (4) investigate and review, in consultation with Council and the City Solicitor, reported cases of violation of the City's code of ethics, and approve and/or administer any resultant action as appropriate.

4. DEPARTMENT HEADS' RESPONSIBILITIES

Department Heads shall:

- (1) ensure all employees of his Department are aware of the City's code of ethics;
- (2) report to the Appointed City Commissioner and the City Solicitor any possible violations of the code of ethics by departmental personnel;
- (3) advise the Appointed City Commissioner, the City Solicitor and Council of any desirable revisions, additions or deletions in the City's code of ethics.

5. GENERAL RESPONSIBILITIES OF CITY EMPLOYEES, OFFICIALS AND APPOINTED MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES

(1) Conduct Generally

City officials and employees are agents for public purposes and hold office for the benefit of the citizens. In that regard, they are to uphold and carry out the laws of the City, as well as applicable federal and provincial laws, so as to foster and enhance respect for government. As public servants, they are to observe in their official acts a high standard of morality and to discharge faithfully the duties of their office regardless of personal considerations and interests. Their conduct in official affairs should be above reproach at all times. Their personal affairs should be such that they do not adversely affect or seriously discredit the reputation of the City.

(2) Dedicated Service

All officials and employees of the City should be loyal to the objectives established by City Council and the programs developed to attain those objectives. Appointed officials and employees should adhere to the rules of work and performance and ethical standards established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(3) Fair and Equal Treatment

- (a) Interest in Appointments. Soliciting members of the Council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the City service shall disqualify the candidate for appointment except for those positions filled by appointment by the Council.

(4) Use of Public Property.

No official or employee shall request or permit the use of City owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided as City policy for the use of such official or employee in the conduct of official business.

(5) Obligations to Citizens.

No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(6) Conflict of Interest.

No official or employee, or appointed member of a Board, Commission or Committee, whether paid or unpaid, shall engage in any business or transaction or have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal, as distinguished from financial, interest includes an interest arising from blood or marriage relationships or close business or political association. Specific conflicts of interest are enumerated, as follows, for the guidance of officials and employees:

- (a) Incompatible Employment. No official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his official duties or would tend to impair his independence of judgment or action in the performance of his official duties.

- (b) Disclosure of Confidential Information. No official or employee shall, without proper legal authorization, disclose confidential information concerning the property, government, or affairs of the City. Nor shall he use such information to advance the financial or other private interest of himself or others.

Within the City's Social Services Department, no file, document or paper that is kept by any person or in any place and that deals with the personal history or record of a child or adult and that has come into existence through anything done under or pursuant to the Department of Social Services Act or an Act administered by the provincial department, and no information pertaining to the personal history or record of a child or adult, shall be made available to any person other than the minister, the deputy minister or a person employed by the provincial department, without the written consent of the minister.

- (c) Gift and Favors. Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the City, be such that no employee can be accused of showing favoritism or bias toward the vendor. Consequently, all City employees are prohibited from accepting gifts or favors from vendors that would tend to influence him in the discharge of his duties. No official or employee shall accept any gift, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City.

- (d) Representing Private Interests Before City Agencies or Courts. No official or employee whose salary is paid in whole or in part by the City, shall appear on behalf of private interests before any agency of the City. He shall not represent private interests in any action or proceeding against the interests of the City in any litigation to which the City is a party. No official or employee shall accept a retainer or compensation that is contingent upon a specific action by a City agency.

- (e) Contracts with the City. No officer, agent or employee of the City shall have any interest in any contract made by him in his official capacity or by any Committee, Board, or Commission, established by the Council, or Department of which he is a member, agent, or employee, except that an officer, agent or employee of the City may contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof or for the construction of public improvements if:
- (i) he is not authorized by law to participate on behalf of the City or any agent thereof, in the awarding of the contract; and,
 - (ii) the contract is made upon a competitive bid in writing, publicly invited and publicly opened; and,
 - (iii) all bids received and all documents pertaining to the award of the contract are available for public inspection in accordance with the Urban Municipality Act.
- (f) Disclosure of Pecuniary Interest in Any Matter. Members of Committees, Boards, Associations, Commissions or other organizations, who have a pecuniary interest in any matter in which the Council or a Committee, Board, Association, Commission or other organization established pursuant to the Urban Municipality Act, or the Planning and Development Act by the Council, shall make full disclosure of same, and comply with the conflict of interest provisions of the Urban Municipality Act in the same manner as members of Council are required to make disclosure of their pecuniary interest in any matter in which the Council is concerned.
- (g) Disclosure of Holdings. In accordance with the provisions of the Urban Municipality Act, the:
- (i) Appointed City Commissioner, City Clerk, Assistant City Clerk, Treasurer, Assessor, Solicitor, Engineer, Director of Parks and Recreation, and Planner; and

- (ii) persons appointed by the Council as members of the Municipal Planning Commission and the Moose Jaw District Planning Commission and the Moose Jaw Development Appeals Board;

shall furnish the City Clerk with a list of all land and buildings that are owned by him, his spouse or a corporation of which he or his spouse is a director or senior officer or in which he or his spouse has a controlling interest and that is located in the City of Moose Jaw, or within an adjoining municipality, before entering the duties of his office.

- (h) Social Services Department. Social Services department employees shall not hire, contract or engage the services of any social services recipients unless such employees have first obtained the prior approval of the Director of Social Services.

Social Services department employees who are members of non-governmental organizations or agencies, which provide services to the public, shall not give preferential treatment to any social services recipient who requests or engages the services of such non-governmental organization or agency.

- (7) Political Activity. No appointed official or employee in the City service shall use the prestige of his position on behalf of any political party. No appointed official or employee in the City service in his official capacity shall orally, or in writing or otherwise solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution to any political party. Such appointed officials and employees shall not take an active part in political campaigns on behalf of any person for the office of Mayor or any Aldermanic positions. Appointed officials, and any employee of the City, or of a Board or Commission appointed by the Council, may seek nomination and election to the Council, subject to compliance with the provisions of the Local Government Election Act, and the Labour Standards Act, provided that such officials or employees are not otherwise disqualified by the Local Government Elections Act from being nominated or

elected, or to hold office as a member of the Council. No official or employee, whether elected or appointed, shall promise an appointment of any City position as a reward for any political activity.

6. OTHER CODES OF ETHICS AND RULES OF CONDUCT

This code of ethics policy shall be in addition to any other codes of ethics, or rules of conduct, which may govern the conduct of City officials, and employees.

Where any official or employee is required to be a member of a professional organization or association, by the nature of his office or occupation and the official or employee is bound to observe the professional organization's or association's code of ethics or rules of conduct, (i.e. The Law Society's Code of Professional Conduct in the case of the City Solicitor), a breach of such code of ethics shall also be considered a breach of this code of ethics policy.

7. SANCTIONS

Violation of any provisions of this code shall raise conscientious questions for the official or employee concerned. Violations may constitute a cause for employee suspension, removal from office or employment, or other disciplinary action. Any reported incidence of violation of these rules shall be subject to investigation by the Appointed City Commissioner and City Solicitor, who may refer the matter to the Council. Sanctions or any disciplinary action shall be decided upon investigation and shall depend upon the specific circumstances of the case. The application of any sanctions and these rules and standards of conduct are subject to the provisions of all applicable employee collective bargaining agreements, and related legislation, including the Urban Municipality Act, where such agreements and legislation relate to standards of conduct, performance, suspensions, dismissals or other disciplinary action.

8. REVISION

This code of ethics policy shall be reviewed, amended, deleted or augmented from time to time as necessary by City Council in consultation with the City Solicitor and Appointed City Commissioner.

CONFLICT OF INTEREST

Advice for Members of Municipal Boards and/or Committees

"No man can serve two masters"

Matthew 6:24/Luke 16:13

Prepared by: Steven D. Schiefner, LL.B.
Office of the City Solicitor
City of Moose Jaw

CONFLICT OF INTEREST
Advice for Members of Municipal Boards and Committees

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INTRODUCTION:

The purpose of this paper is to discuss certain legal aspects of being a member of a municipal board or committee. This paper discusses the rules regarding **Conflict of Interest**. The law of conflict of interest flows from the rules of natural justice which deal with the legal principle that the people and organizations, whose lives are being affected by your decisions, have the right to be heard in the decision-making process, have the right to receive a “fair hearing”, and ultimately have the right to expect City Council to keep an “open mind” when deliberating on the matter. The rule against conflict of interest is of ancient origin and is based on the moral principle that “*no man may serve two masters*”.

BACKGROUND:

The City of Moose Jaw, like most larger urban municipalities, utilizes a variety of boards and committees to assist in the conduct and proper management of the affairs of the City. In the City of Moose Jaw's case, we have nine (9) advisory committees that report directly to City Council. In addition, the City has quasi-judicial committees, temporary or ad-hoc committees and various other associated organizations that report to City Council (in one fashion or another), such as the Murals Project Management Board, the Moose Jaw Industrial Development Corporation and the Moose Jaw Board of Police Commissioners, to name but a few. Most of these boards are purely advisory in nature; meaning that their role is to provide "advice" and/or recommendations to City Council, who retain the ultimate decision-making authority for most municipal matters. There are, however, a few committees with independent decision-making authority (ie. the Board of Revision, the Development Appeals Board, etc.). Except for the few committees that have independent authority, the primary role of the City's numerous committees is to provide advice to City Council on matters within silos of responsibility. For example, the Traffic/Parking Technical Committee (as the name would imply) gives advice to City Council on traffic and parking matters and makes recommendations regarding potential or desired amendments to the City's Traffic Bylaw. Notwithstanding that City Council is the final decision-making authority in such matters, the importance of these advisory communities should not be underestimated. They provide advice and recommendations directly to City Council and these recommendations are routinely adopted, verbatim, by City Council.

Because of the influence that these boards and committees have (or reasonably may be perceived as having) in the decision-making process of the City of Moose Jaw, a breach of the rules of natural

justice by an advisory committee (or even a sub-committee) can taint the entire decision-making process that occurs thereafter, up to and including, the resultant decision of City Council. As a consequence, all of the City's boards and committees are bound by common law doctrines, such as procedural fairness and the various rules against conflict of interest and bias. Furthermore, it should be noted that the City's Code of Ethics Bylaw, being Bylaw No 4381, expressly includes members of the City's boards and committees within the scope of the bylaw. To which end, portions of that bylaw read as follows:

"WHEREAS public officials and employees and members of Boards, Commissions and Committees of the City of Moose Jaw have an obligation not merely to obey the law, but to act in a manner that is so scrupulous their conduct will bear the closest public scrutiny;"

"1. The Code of Ethics Policy annexed to this Bylaw and marked as Appendix "1" is hereby adopted as the City of Moose Jaw's Code of Ethics for all of its public officials, employees and members of its Boards, Commissions and Committees."

(Emphasis added)

Therefore, the issue is not whether or not the rules of natural justice apply to members of the City's advisory committees (because clearly they do) but rather the problem is defining whether or not (and or when) these rules have been breached.

DEFINING CONFLICT OF INTEREST:

In a municipal context, conflict of interest is distinguished between "pecuniary" and "non-pecuniary" conflict of interest. A pecuniary conflict of interest arises if a person has a "monetary" interest in any matter that he/she has been asked to adjudicate. A monetary interest means that you or a member of your immediate family (spouse, parent or child) or your agent or partner could make or lose money from the impugned decision. A pecuniary interest also arises if any you or your immediate family or your agent or partner is a senior officer or has a controlling interest in a corporation which could make a financial profit, or be adversely affected (financially), by the said decision. The bottom line is that, if a member of one of the City's advisory committees (or his/her family or his/her business partners) stand to make or lose money (directly or indirectly) from a decision that will flow from a matter before that committee, then that person has a conflict of

interest. In the case of an elected official, pecuniary conflict of interest has been codified by statute and can be seen in sections 114 to 119 of *The Cities Act*.

It is important to note that a conflict of interest can arise even with the best of intentions. Unfortunately, good intentions are not relevant in determining whether or not a conflict of interest has arisen; only in determining the applicable penalty. The best test is simply whether or not the member of the committee has an economic interest in the matter before that committee. If a member of an advisory committee finds themselves in a pecuniary conflict of interest, they should immediately declare that conflict of interest and step aside from any participation in the decision-making process. They should not be present during the debate and they should refrain from discussing the matter with other members of the committee (both formally and "informally").

Non-pecuniary conflict of interest, on the other hand, flows from the common law rules of natural justice. These rules, in a municipal context, means that the people, whose lives are affected by municipal decisions, have the right to receive a "fair" hearing, including the right to expect that government officials (including staff, committee members and elected officials) will not be working under improper influences or considerations when discharging their duties (ie. bias). The rules of natural justice are intended to preserve and promote good government and public confidence in the decision-making process. As a consequence, these rules are not to be interpreted narrowly.

In the words of Lord Hewart (1924):

"Justice should not only be done, but should manifestly and undoubtedly be seen to be done."

WHAT IS CONFLICT OF INTEREST?

Determining whether or not a conflict of interest has arisen can sometimes be a difficult question, both in terms of pecuniary and non-pecuniary conflict of interest. Rules, such as conflict of interest, are often best understood by considering an example. A practical example is a situation wherein a member of an advisory committee, who has an association or relationship with one of many organizations applying (and thus competing) for grant funds from the City, who participates in that committee's deliberations on the allocation of those grant funds. In other words, is it a problem if a

committee member does not declared a conflict of interest during deliberations by that committee on a matter where that committee member has an association or relationship with one the parties seeking the support and/or assistance of that committee?

As with most legal questions, whether or not a conflict of interest has arisen is always dependent on the facts (and subtle distinctions can sometimes be very significant).

As previously stated, pecuniary conflict of interest, which is typically restricted to matters of "personal" economic interest. For example, if a member of an advisory committee is an "**employee**" of an organization seeking financial assistance from the City, that clearly would place that member in a pecuniary conflict of interest regarding the adjudication of not only that grant application but all grant applications within that pool of funding. Similarly, because of matters such as "director's liability", if the member of that advisory committee is a "**director**" of the organization seeking financial assistance from the City, that would also give rise to a pecuniary conflict of interest. If, on the other hand, the member of that advisory committee is merely a "**member**" of the organization seeking financial assistance, it is doubtful if that alone would give rise to a "pecuniary" conflict of interest.

Employees and directors of associations can be directly affected by the financial comings and goings of that association. On the other hand, most people, who are just "members" of an association, do not have the same kind of "monetary" relationship with that association as do employees or directors. However, being a member of an association certainly could give rise to a "reasonable apprehension of bias" (ie. a non-pecuniary conflict of interest).

WHAT IS DISQUALIFYING BIAS?

The meaning of "disqualifying bias" can best be understood by examining the purpose behind the rule, which is to ensure that persons who come before tribunals, including City Committees and/or City Council, are treated "fairly". This means that, where there is a right to a hearing, the hearing will be conducted in accordance with the rules of procedural fairness. Procedural fairness demands that the people or organizations, whose interests are being affected by the decision-making process, have the right to receive a fair hearing, including the right to expect that the persons in authority will not be working under improper influences or considerations when discharging their duties.

Obviously, a pecuniary interest would give rise to a reasonable apprehension of bias. However, there are also a number of non-pecuniary interests that can also give rise to a reasonable apprehension of bias as well, including the following:

1. **Associational Bias:** An "associational bias" can arise if a person in authority has an apparent personal interest in the outcome of a decision before the committee. Associational bias is similar to, but much broader than, pecuniary conflict of interest (because it is not restricted by monetary relationships). Disqualifying bias can be founded upon any personal interest or association that creates a reasonable apprehension of bias on an examination of the facts. As previously stated, good intentions are not relevant in determining whether or not there could be a perception of bias. Public confidence in municipal governance is undermined if there is even a perception that a government official (including staff, committee member or elected official) may be exercising his/her authority or influence to serve a private interest. The rules of procedural fairness are intended to prevent even the perception of bias. To which end, this is a good example of where justice must not only be done, but must be seen to be done.
2. **Attitudinal Bias:** A "attitudinal bias" can arise if a person in authority has so pre-judged a matter that they can no longer be persuaded to the contrary, regardless of the evidence. Attitudinal bias denotes a state of mind that is either predisposed to a particular result or is closed with regard to a particular party. Obviously, a "closed mind" on the part of a public official prevents a fair hearing. The operative test for attitudinal bias is whether or not the member is still "amenable to persuasion". Typically, disqualifying bias arises when it becomes known that a member has already prejudged the outcome of a decision before he/she has heard all the facts. Obviously, the "state of mind" of a person is very difficult to prove. As a consequence, only in rather extreme circumstances does it tend to ever become an issue.

If a member of an advisory committee is also a "**member**" of an organization seeking financial assistance from the City, that clearly raises a reasonable apprehension of bias regarding the adjudication of not only that grant application but all grant applications within that pool of funding. In fact, these circumstances are the "textbook case", so to speak, of "associational bias".

Any member of an advisory committee, under such circumstances, should err on the side of caution, should declare a conflict of interest (or potential conflict of interest, if that makes them feel more comfortable) and step aside from any participation in the decision-making process. This includes both direct and indirect participation in the process. They should step aside when the matter arises, they should not be present during the debate, and they should refrain from discussing the matter with other members of the committee (both formally and "informally").

As has already been noted, a breach of the rules of natural justice by a member of an advisory committee, or even a sub-committee, can taint the entire decision-making process that occurs thereafter, up to and including, the final decision of City Council. Participation in the decision-making process by a member of an advisory committee, with either a pecuniary conflict of interest or in circumstances of a reasonable apprehension of bias, can be fatal to the entire decision-making process that flows therefrom.

CONCLUSIONS AND/OR SUMMARY:

Members of the City's various committees have been chosen by City Council to serve their community. In this capacity, such volunteers occupy a position of "public trust". The rules of natural justice, in a municipal context, are intended to prevent members of advisory committees from participation in conduct that would undermine public confidence in the City's decision-making processes. As such, these rules should not be seen as a challenge to the integrity of our many dedicated volunteers. For example, disclosing a potential conflict of interest is not, in any way, an admission of wrongdoing on the part of a member of an advisory committee; rather, it is merely a matter of compliance with the City's Code of Ethics.

Members of the City's advisory and other committees should err on the side of caution, should declare any conflict of interest or potential conflict of interest whenever they may arise, and step aside in circumstances of a pecuniary conflict of interest or a reasonable apprehension of bias. In this regard, it should be noted that our rules of quorum are designed to permit our boards and committees to function, even in the event multiple members must step aside in the decision-making process.

If any member appointed to a City's board or committee has a question as to whether or not his/her personal circumstances may give rise to a potential conflict of interest in the performance of his/her committee duties, that member should contact the City Solicitor.

**RESOLUTION REGARDING
ABSENTEEISM OF BOARD MEMBERS**

With respect to absenteeism of Board Members, the following motion was adopted by City Council at the December 13, 1993 regular meeting:

“THAT where the Chairman’s records indicate that a member of any Board, Committee or Commission appointed by City Council, has failed to attend three (3) consecutive meetings of the Board, Committee or Commission, the Chairman shall notify the City Clerk of that fact and advise in writing, whether or not the member has provided the Board, Committee or Commission with a reasonable excuse for his failure to attend the meetings; and

THAT the City Clerk advise City Council of such cases where a reasonable excuse has not been received; and

THAT City Council thereupon adopt:

- a. A resolution revoking the member’s appointment to the Board, Committee or Commission; and
- b. A resolution appointing another person in his stead.”

2020 UPDATED MURAL REPAIR PROPOSAL

Informed that it might be possible to do more repair work than my first suggested proposal I have relooked at the murals and some work I thought could wait a year if it had to.

Finishing the repainting of Sisters of Sion \$450.00

Opening Day Parade-After explaining the planned repairs of this old mural to Alex Carelton, owner of the Crushed Can, and that the 100 year old loose mortar and peeling paint would be scraped off, with new mortar and paint put on the outside white lettering area at top, bottom, and right side of mural, and the main picture repainted on panels we both agreed placing the panels on two by fours on this rough wall would create a smoother surface and the added space behind might preserve the wall longer and I would fill in any holes behind panels. The added time and materials would raise the cost slightly to \$5600.00

Renting a scissor lift for a month(approximately \$1250.00) for higher murals is more cost effective then for each project, rain always a factor, but The First Run, Sunday School, and moving one of the McKarr building murals away from the steam pipe, and a bit of work on some others would be done.

A quick distant glance at some older murals doesn't show the decay, cracks, fading,etc. but if left only creates harder to repair situations.

The First Run , 1991, still needs scraping, power washing and repainting, and Sunday School,1991, is losing paint between bricks and also fading, Wire brushing, power washing, and repainting suggested. The cost for both \$5000.00.

There are always a few that seem to need minimal repairs such as Clarke Bros., , graffiti on Crescent park, mural, etc. and its good to estimate an extra \$1000.00 if needed.

If a new site could be found for the Chinese Mural then repair and installation could also be done.

Grant McLaughlin

Feb. 11,2020

**OUTSTANDING ITEMS FOR FOLLOW-UP BY
MURALS PROJECT MANAGEMENT COMMITTEE**

February 27, 2020

TABLED/REFERRED MATTERS

MEETING DATE

DEPT./COMMITTEE

STATUS

Main Street Mural

December 12, 2019

Tabled by Committee

Feb. Agenda
