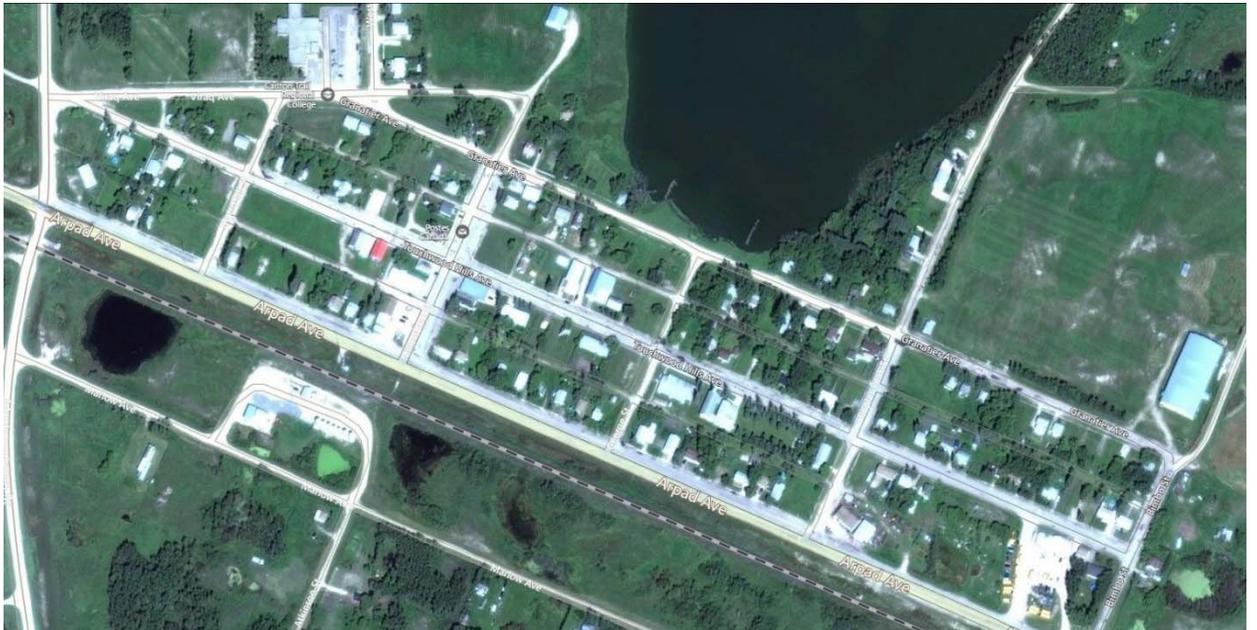


# VILLAGE OF LESTOCK



9/7/2016

## MUNICIPAL INSPECTION REPORT

Prepared by Wayne Zerff pursuant to a Minister's Order dated July 21<sup>st</sup>, 2016, which appointed Wayne Zerff as an Inspector pursuant to subsection 396(2) of The Municipalities Act to inspect and report on the matters connected with the management, administration or operation of the Village of Lestock.

**DISCLAIMER:**

This report and its contents, including statements, comments and recommendations, are based on the review of existing records made available to the Inspector by the Acting Mayor and Interim Administrator.

This communication is prepared solely for the purpose stated in the Minister Order dated July 21, 2016 and is not intended for any other purpose. No responsibility is accepted to any third party who relies on this communication for information.

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## EXECUTIVE SUMMARY

The Village of Lestock was incorporated in 1912 and is situated along Highway 15 and the Canadian National Railway main line. The community is located 142 km (1.5 hrs) north east of the City of Regina.

The Village of Lestock has a web site established for the community, however, no bylaws are listed on the site, the minutes are all from 2014, the 2013 audit information and 2013 notice of waterworks operations are on the site.

According to the Census Profile with Statistic Canada, the population of Lestock was 138 people in the 2006 Census, while the 2011 Census reports 125 as a population. This represents a decrease in population of 9.4% over the five-year period. The Census profile shows that 20 of those people are under the age of 19 years.

Despite a small population the village has a number of business entities, such as:

### Community Business

• Lestock Motors	• Viterra Ag
• Lestock Co-operative Grocery Store	• Vass Farm Supply
• Don's Pharmacy	• Link Electric

### Community Services

• Canada Post	• Family Resource Centre
• St. Joseph's Integrated Care Centre	• Community Hall
• Touchwood EMS	• Volunteer Fire Department
• Lestock Housing Authority – Heritage Villa	

The Cornerstone Credit Union had a branch in the village until recently. The Village Office is now located in the former Cornerstone Credit Union building. As well, the building is large enough to house the public library.

The municipality is currently under an Environmental Protection Order from the Ministry of Environment issued July 6, 2015.

The Water Security Agency contacted Advisory Services to report issues the agency has with the village Lagoon and a drainage project on Justin Lake under the Provincial Disaster Assistance Program.

## MINSITERS ORDER

On July 21, 2016 Wayne Zerff was appointed by the Minister of Government Relations (the Ministry) as an inspector for the Village of Lestock. The appointment is pursuant to subsection 396(2) of *The Municipalities Act*.

The Minister's Order indicated the appointment was deemed necessary due to the level of discord in the Village of Lestock (village) and its non-compliance with legislation.

## MUNICIPAL INSPECTION TERMS OF REFERENCE

Schedule “A” on the Minister’s Orders sets out the terms of reference for the inspection:

1. The inspector will inspect the following matters connected with the management, administration or operation of the Village of Lestock (the " village"):
  - (a) the key village documents and files from 2012 to present, including petitions of voters, referendums, minutes, bylaws (including bylaws for Public Notice and for Council Procedures), financial statements, council members’ public disclosure statements and Oaths of Office, the employee code of conduct, and general files;
  - (b) the appropriateness of the directions, actions or inactions of any employee or agent of the village or member of council for the village relating to the 2015 petition for a management and financial audit; and
  - (c) substantive administrative deficiencies of the village, and any matters where the village is not in compliance with its legislative responsibilities, including education property tax reporting and remitting, 2015 audited financial statement completion, and submitting the 2016 assessment return
2. The inspector shall prepare a written report in relation to the matters under his inspection outlining his findings of fact, conclusions and any recommendations and provide the report to the minister and to the council of the municipality as soon as reasonably possible
3. To conduct the inspection, the inspector shall have the power, privileges and immunities provided for in section 396 of The Municipalities Act which includes the power to:
  - (a) require the attendance of any officer of the municipality or of any other person whose presence the inspector considers necessary during the course of the inspection;
  - (b) require a person to give evidence under oath or after making an affirmation or declaration, orally or in writing, for the purpose of the inspection, and for that purpose may require a person to attend at any location; and
  - (c) require a person to produce to the inspector, or to a person designated by the inspector, all records and other property in his or her custody or control that may relate in any way to the matters that are the subject of the inspection.
4. The inspector may determine the rules of, as well as the process and procedure for, the inspection as he sees fit.
5. The inspector may consider any document, including electronic record, or any other evidence, verbal or written, that he considers relevant and reliable.
6. The inspector will provide progress reports regarding the status of the inspection to the minister and the council of the village when requested by the minister.

## **INSPECTION AND ACCESS TO VILLAGE RECORDS**

On August 2<sup>nd</sup>, 2016 I drove to the Village of Lestock and found the municipal office closed. I met the Acting Mayor Edward Mostad at his workplace and presented a copy of the Minister's Order (order). Mr. Mostad indicated that the municipal office (office) was closed to the public, as they are in the process of interviewing for a new administrator. He indicated that the Interim Administrator was in the office and that he would assist in providing me access to the office.

Once in the office I met the Interim Administrator Ms. Wanda Lloyd and I provided her a copy of the order. She as well indicated her cooperation and directed me to where the office records were located. Both were fully cooperative and indicated the records were recently moved from the old village office to the existing building.

The administrator indicated that she was helping the village with administration work on her holidays, until they hired a new administrator. The administrator indicated that her hours of work would be from 10:00 am to 2:00 pm, for the next few days. It was indicated that I could access the records for inspection purposes during this time.

Both the Acting Mayor and Interim Administrator indicated that due to the recent move, they were unable to verify all the records were at the new location. They indicated that work to organize the files and records is not yet finished. As well, they indicated the safe was not accessible by the Village, to the best of their knowledge and that the Cornerstone Credit Union staff would have to assist with getting access to this safe.

It was indicated that the former administrator had more knowledge on the location of village documents and the accessibility to the safe.

I proceeded to review and collect documents pursuant to the order and terms of reference for the years 2012 to present. As well I took a copy of electronic records, to assist with the inspection review. I performed this work on August 2<sup>nd</sup> and August 3<sup>rd</sup>, I verbally indicated to the Acting Mayor and Interim Administrator that after my review of the documents found, I would have a better understanding of what may be missing. I indicated if they were interested a meeting could be setup to review the items missing or non-compliant.

I took copies of approximately 2500 municipal documents as well as 1,200 electronic records, to assist in determining compliance or non-compliance of legislated requirements during the writing of this inspection report.

Munisoft municipal software is used in the administration of the Village of Lestock.

## KEY VILLAGE DOCUMENTS REVIEWED

After completing the collection of the documents and electronic records pursuant to the order, I reviewed and looked for the following information to review for reporting purposes:

(a) bylaws, other repealed bylaws	(b) minutes
(c) petitions of voters	(d) referendums
(e) public disclosure statements	(f) oaths of office
(g) employee code of conduct	(h) council procedure bylaw
(i) annual financial statements	(j) tax and assessment rolls
(k) minister's orders	(l) tax notices and assessment notices
(m) payroll records	(n) utility billings
(o) WCB records	(p) cemetery records
(q) GST records	(r) grants
(s) bank statements & reconciliations	(t) general files

## MANAGEMENT & ADMINSTRATIVE RESPONSIBILITIES REVIEWED

### Council Legislative Responsibilities

In order to understand and document any management deficiencies that occurred as a result of actions or lack of action by the Village of Lestock council, it is necessary to take a look at The Municipalities Act (the “MA”) and the expectations set out for council in legislation.

The Village of Lestock council derives their authority from the MA. The municipal council is responsible for shaping the future of the municipality by implementing new policy, by-laws and community goals. The MA does not permit individual members of council to make decisions on their own.

The MA is considered “permissive” legislation and provides municipalities with “natural person powers”. Municipalities are considered corporations and have the powers, rights, and privileges of a “natural person” for the purpose of carrying out or administering its activities unless those powers are limited by legislation.

Council is legislatively responsible to ensure that:

1. Public disclosure statements are signed by each council member -mandatory effective November 19th, 2015 – 60 days to sign, 30 days after being elected (142 The MA)
2. Council procedure bylaw must be amended or adopted by January 19th, 2016
  - a. Council procedure bylaw -include rules for conduct of members
  - b. Council procedure bylaw -include rules regarding confidentiality, transparency, openness and accessibility of documents
  - c. Council procedure bylaw -includes rules respecting delegations, presentations and submissions

- d. Council procedure bylaw -includes the days, times and places of regularly scheduled meetings and the procedures for amending those days, times and places
- e. Council procedure bylaw -includes procedures for calling a special meeting
3. A council shall cause to be established and made publicly available a code of conduct for employees of the municipality that includes conflict of interest rules (111.1)
4. Each council member must sign an oath of office
5. A qualified administrator is appointed for the municipality
6. The municipality's assessment is confirmed by SAMA each year
7. All decisions are made by resolution or bylaw
8. At least one council person or other person is designated to sign cheques
9. A fidelity bond is obtained for the administrator and any other employees as required (113)
10. Workers' Compensation coverage is obtained for works, employees and labour contractors
11. All meetings are held in public
12. A quorum is required at all meetings
13. A record retention schedule is established
14. Public notice is provided when a regular meeting date is changed
  - a. Public notice bylaw is adopted
  - b. Public notice is provided prior to considering any report or matter listed in clause 127(b), (e), (i), (j), (m), (o), (p) or (s) (The MA)
15. An operating and capital budget is adopted each year prior to authorizing the tax levy
16. The municipality's audited financial statement and the auditor's report is submitted to the minister by July 1st (186 The MA)
17. An auditor is appointed by the municipality and its controlled corporations (188 The MA)
18. A tax levy is authorized on all assessments of the municipality
19. A prorated amount of moneys received from the trailer or mobile home permit fees is paid to the appropriate school division
20. Streets and roads are kept in a reasonable state of repair
21. A water rate policy is adopted by bylaw or resolution
22. An emergency plan is adopted
23. A board of revision is appointed
24. If the administrator reports to the council that a petition from the voters, requesting a financial audit or management audit, is sufficient; the council shall at its next meeting pass a resolution to engage the services of an auditor who meets the requirements of The MA to conduct the audit
25. A council may by bylaw, establish a policy to be followed when reporting theft or fraud of municipal funds or property to the public (153 The MA)
26. A council may prepare and adopt a capital works plan for a period of not less than five years, including the current year (157 The MA)

In my inspection of the village records, I reviewed key documents from 2012 to present pertaining to the legislative responsibilities of council. In the Substantive Administrative Deficiencies section of this report, I provide the details of these deficiencies.

## Administrator Legislative Responsibilities

One of the most important aspects of good municipal government is an effective working relationship between council and the administration. The key role of council is to provide leadership and set policy. The Administrator is a policy advisor and ensures councils policies are carried out.

The Administrator has specific duties set out in the MA as follows:

1. The administrator shall take charge of and safely keep all books, documents and records of the municipality that are committed to his or her charge and shall:
  - a. produce, when called for by the council, auditor, minister or other competent authority, all books, vouchers, papers and moneys belonging to the municipality; and
  - b. on ceasing to hold office, deliver all books, vouchers, papers and moneys belonging to the municipality to his or her successor in office or to any other person that the council may designate.
2. All minutes of council meetings are recorded
3. The names of the members of council present at council meetings are recorded
4. The minutes of each council meeting are given to council for approval at the next regular council meeting
5. The corporate seal of the municipality, bylaw and minutes of council meetings and all other records and documents, funds and securities of the municipality are kept safe
6. The council is advised of its legislative responsibilities pursuant to The Municipalities Act or any other Act
7. The minister is sent any statements, reports or other information with regard to the municipality that may be required by the minister pursuant to The Municipalities Act or any other Act
8. The official correspondence of the council is carried out in accordance with council's directions
9. An indexed register containing certified copies of all bylaws of the municipality is maintained
10. Cash collections that have accumulated to the amount determined by the council that is equal to or less than the amount for which the administrator is bonded or insured, but in any case not less than once a month nor more than once each day, are deposited in the name of the municipality in a bank or credit union designated by the council, of which the administrator may not be an employee
11. The funds of the municipality are disbursed only in the manner and to those persons that are directed by law or by the bylaws or resolutions of the council
12. A complete and accurate account of assets and liabilities and all transactions affecting the financial position of the municipality is maintained in accordance with generally accepted accounting principles
13. The financial statements and information that the council may, by resolution, request are submitted to the council
14. On or before June 15 in each year, a financial statement is completed as required by section 185 of The MA
15. An annual financial statement for the revenues and expenditures of an additional service area is presented to council

16. At the first meeting of the council in January in each year, the administrator shall provide all bonds (fidelity bond) or equivalent insurance of employees mentioned in subsection 113(1) of the MA to the council, and the council shall renew or change the bonds or equivalent insurance as may be required
17. First meeting of council following a general election is to be held within 31 days after the date of the election and at a time, date and place determined by the administrator
  - a. (121 – written notice at least 24 hours prior)
18. The administrator shall call a special meeting whenever requested to do so, in accordance with the council procedure bylaw and 123 of The MA
19. The administrator shall determine the sufficiency of the petition and that determination is final (129(3) The MA)
20. Transmissions of tax collections to other taxing authorities
21. Monthly education property tax return shall be provided before 10th day of each month in accordance with clause 311(1) of The MA
22. On or before September 15th of each year, an interim education property tax return shall be provided in accordance with clause 311(2) of The MA
23. On or before January 15th of each year, an annual education property tax return shall be provided in accordance with clause 311(3) of The MA

**Municipal Documents**

- 115 (1) Minutes of council meetings must be signed by:
- (a) the person presiding at the meeting at which the minutes are approved; and
  - (b) the administrator or the administrator’s designate.
- 115 (3) Bylaws must be signed by the mayor and the administrator.
- (4) Agreements must be signed by at least two persons designated by council.
  - (5) Cheques and other negotiable instruments must be signed by the administrator and at least one other person designated by council.

**Preservation of public documents**

- 116 (1) A council shall establish a records retention schedule, and all documents of the municipality shall be dealt with in accordance with that schedule.
- 116 (2) Notwithstanding subsection (1), the following documents must be preserved permanently:

a) Bylaw Registers, Active and Repealed Bylaws;	b) Council Minutes;
c) Annual Financial Statements;	d) Tax and Assessment Rolls;
e) Minister’s Orders;	f) Deputy Returning Officer Statement of Results
g) Cemetery Records	h) Returning Officer’s Summary of Results
i) Development Permits Register	j) Record Disposal Documentation
k) Municipal Maps and Plans	

In the Substantive Administrative Deficiencies section of this report, I provide the details of these deficiencies.

## **SUBSTANTIVE ADMINISTRATIVE DEFICIENCIES OF THE VILLAGE**

### **Council Deficiencies**

The list of the key legislative responsibilities deficient by council includes:

1. Public disclosure statements are not signed by each council member, which was mandatory effective January 19<sup>th</sup>, 2016,
2. Council procedure bylaw was not found in the bylaw book or bylaw index,
3. Code of conduct for employees pursuant to clause 111.1 of The MA was not found,
4. The last Administrator appointed by council in the March 14<sup>th</sup>, 2016 minutes of council was not qualified and no resolution was found to contract a mentor,
5. No Fidelity bond coverage for 2012 and 2013 year, but the records indicated it was added for subsequent years and it is included in the 2016 insurance coverage at \$30,000,
6. For 2015 and 2016 no resolutions were found in the minutes to set a mill rate or adopt a budget for that year,
7. For 2016 no Auditor was appointed by council,
8. Financial Statements and Auditor's Report for 2015 was not completed by July 1<sup>st</sup>, 2016, however, council appears to have passed a bylaw to extend the time required for the completion of the Financial Statement/Gas & Tax Grant at the July 29<sup>th</sup>, 2016 special meeting of council,
9. For the years 2012, 2013, 2014, 2015 and 2016 my review found no resolution relating to the appointment of a Board of Revision,
10. For 2015 school tax collections were not forwarded to the school district on a monthly basis, only two remittances were made during the fiscal year, in 2016 any outstanding collections from 2015 were transferred to the school division. In 2016 monthly education property tax payment transfers were compliant,
11. On May 20<sup>th</sup> an administrator report indicates that council members were presented with a decision by the Administrator in regards to the November 2<sup>nd</sup>, 2015 petition which indicated the petition was sufficient, council failed to engage the services of an auditor who meets the requirements of the MA to conduct the audit at the next regular meeting,
12. Assessment Roll was not prepared by May 1<sup>st</sup>, 2016, but council passed bylaw no. 2006-03 a bylaw to extend the time required for the completion of the Assessment Roll, which was adopted by council on August 1<sup>st</sup>, 2016,

It was difficult to determine if public notice was provided in accordance with bylaw 06-2005 as the notice requires posting at the municipal office and in a conspicuous place within the municipality. I did not discover a file that contained any copies of the public notices that may have been posted during the years 2012 to 2016.

Waivers for special meetings were signed and attached to the minutes I inspected.

## Administrator Deficiencies

The village office recently moved and the Acting Mayor and Interim Administrator indicated they would endeavour to find any records that may be missing or misplaced due to the move.

The list of the key legislative responsibilities deficient by the administrator includes:

1. Minutes for the 2016 year in the minute book ended at the April 11<sup>th</sup> regular council meeting,
2. Minutes for the following months are not in the minute book, but an unsigned electronic record was found:
  - a. 2016 (May to June),
3. Minutes for the following months are not in the minute book and no electronic copy could be found, these documents are considered missing:
  - a. 2014 (October to December),
4. The following minutes have not been approved by council at their next regular council meeting:
  - a. April 30, 2015 special meeting,
5. The following minutes have not been signed by the presiding council member:
  - a. January 19, 2016, February 8, 2016,
  - b. June 2, 2015,
  - c. 2014 minutes found were all signed,
  - d. May 15, 2013, June 12, 2013,
  - e. Sep 12, 2012 Dec 12, 2012,
6. The following minutes have not been signed by the administrator:
  - a. January 19, 2016, February 8, 2016,
  - b. 2015 minutes were all signed,
  - c. May 28, 2014,
  - d. May 15, 2013, June 5, 2013, June 12, 2013, July 10, 2013,
  - e. Dec 12, 2012,
7. The minutes for January in the years 2012 to 2016 do not record that the administrator provided all bonds (fidelity bond) or equivalent insurance of employees mentioned in subsection 113(1) to the council, for the council to renew or change the bonds or equivalent insurance as may be required,
8. Monthly Tax collections transferred to the Prairie Valley School Division No. 208
  - 2016 -compliant -payments to the school made for all applicable months
  - 2015 -non-compliant -payments to the school only made in Feb, July
  - 2014 -non-compliant -payments to the school only made in Mar, Aug, Sep
  - 2013 -compliant -payments to the school made for all applicable months
  - 2012 -compliant -payment to the school made for all applicable months,
9. According to electronic records the 2015 interim education property tax return report was filed late with the Prairie Valley School Division No. 208 and Ministry of Education; while the 2015 annual education property tax return has to date not been filed with the Prairie Valley School Division No. 208 and Ministry of Education,
10. Taxes for the 2016 year were not levied during my inspection. The taxes are to be levied by August 15<sup>th</sup> in accordance with clause 263 of The MA,
11. For 2016 at the time of my inspection the mill rate return was not completed and returned,

12. The municipality uses the Munisoft computer software system to manage Tax and Assessment Rolls, paper copies of these rolls for prior years were not found in my inspection process.

### **Gas Tax Fund**

1. I discovered a May 6, 2016 letter from the Executive Director of the Gas Tax Fund to the Mayor of the Village of Lestock, indicating *“Third Consecutive Payment to be Held for Municipal Non-Compliance under the federal Gas Tax Fund”*.
2. The letter indicated that submission of an Infrastructure Investment Plan (IIP) under the new agreement is required.
3. A IIP # 0506-000096 exists for the Water Treatment Plant Upgrade, however, no project expenditures have been reported spent to the Gas Tax Fund. The estimated date for completion of this project is December 31, 2017.
4. The letter indicates \$15,088.08 has been provided to the Village of Lestock in Gas Tax Fund payments and that failure to comply could result in repayment of grant funds.
5. A Time extension bylaw was passed by council in regards to this matter. No authority exists to pass a bylaw for this purpose. The interim administrator was working on the file at the time I was onsite performing the inspection work.
6. In my review I discovered documents that indicated \$4,814.50 had been spent in 2014 on the upgrade of a pump for the well, that was part of the Water Treatment Plant Upgrade project.

### **2015 Petition Requesting a Referendum**

On January 6, 2015 a Petition Requesting a Referendum was submitted to the Administrator of the Village of Lestock. The Petition indicates that constant friction has divided the community, which will persist regardless of another election. It goes on to state that the Village has been through six maintenance staff and (at that time) three administrators, which it indicates will continue unless the village becomes more stable.

The Administrator reported to the January 6, 2015 regular meeting that the petition was sufficient and council passed a motion (resolution # 11/2015) setting the date of March 4, 2015 for the referendum on the following question:

**“That the Village of Lestock apply to Restructure the Village of Lestock into the surrounding Rural Municipality of Kellross #247”**

The vote on the question lost by four (4) votes.

## 2015 Petition for a Financial Audit and Management Audit

In regards to the 2015 petition for a financial audit and management audit, I reviewed the following key documents to determine the appropriateness of the directions, actions or inactions of any employee or agent of the village or member of council for the village:

### Doc #

1. Petition – November 2<sup>nd</sup>, 2015 submitted to administrator
2. Legal advice from village solicitor – January 18, 2016
3. April 6<sup>th</sup>, 2016 letter from administrator to Representative of the Petitioners
4. Administrator report of May 24<sup>th</sup>, 2016 on petition presented to council on May 20<sup>th</sup>, 2016.
5. May 25, 2016 -letter from administrator to Representative of the Petitioners
6. June 29<sup>th</sup>, 2016 minutes (unsigned) -motion to terminate the current administrator due to insubordination and a motion to hire an interim administrator and a motion to allow the village solicitor to work on the petition.

### Document 2

The legal advice from the village solicitor was dated January 18, 2016 and indicated the following key points for the administrator to use in the decision process on the validity of the petition:

- a) The letter states that pursuant to s. 134 of *the Municipalities Act (the act)* the administrator must determine whether the petition is sufficient and pursuant to s. 135 of *the act*, this must take place within 30 days.
- b) The letter states that in their legal opinion quick determination of the sufficiency should be made and then presented to council.
- c) The letter provided details on the recommended process to determine sufficiency and discussed which population numbers for the village to use for determining the one-third requirement.
- d) The letter indicated that upon examination of the statement of representative, we note that it does not contain the necessary declaration as to the first day upon which a signature was affixed, as is required by s. 133(4)(c) of the MA. This is, of course, a minor deficiency, but nevertheless, is a deficiency. For reasons we will note later, it is appropriate for you to declare the petition insufficient.
- e) The letter indicates that council will have to weigh the interests of the Village and all ratepayers in making that determination.

### Document 3

The April 6<sup>th</sup>, 2016 letter from the administrator to the Representative of the Petitioners indicates that discussions were held with both the village solicitor and village council regarding the petition and its validity. As a result of those discussions the administrator declared the petition “*insufficient due to what is being asked. There are yearly audits done and can be viewed at the Village Office*”. The administrator indicated the petitioner is more than welcome to submit another petition to the current village clerk.

#### Document 4

An administrator's report was found dated May 24<sup>th</sup>, 2016, in which the following key points are noted (*the administrator who authored this May 24<sup>th</sup> report is not the same administrator who authored the April 6<sup>th</sup> decision on validity*):

1. The report states that in cooperation with the request from Assistant Deputy Minister of Municipal Relations and Northern Engagement Office, I presented the petition to council at the regular monthly council meeting on May 9, 2016.
2. The report states that the administrator gave a deadline of May 20<sup>th</sup>, 2016 to determine a final decision on the validity and goes on to provide details of the petition.
3. The report states that on May 20, 2016 the administrator presented to Acting Mayor and Council that the signatures were valid at the time of presentation on November 2, 2015 to the administrator at that time.
4. The report states that the Acting Mayor and Council requested to have until May 24<sup>th</sup>, 2016 to speak to ratepayers that would like to submit in writing the reasons they want their names taken from the petition.
5. The report states that the Administrator understands that no names can be removed pursuant to s. 134(2) of *the act*.
6. The report states that after speaking to advisory services and municipal relations on May 24, 2016 she will be responding to the Representative of the Petitioners the Ministry of Government Relations and Deputy Ombudsman and legal counsel for the Petitioners.

#### Document 5

In the May 25<sup>th</sup>, 2016 letter from the administrator to the Representative of the Petitioners, it is indicated that after the matter was presented to the May 9<sup>th</sup>, 2016 regular council meeting, the administrator was directed to examine the validity of the signatures on the petition that was presented to the acting administrator on November 2<sup>nd</sup>, 2015.

The letter states that the administrator gave a deadline of May 20<sup>th</sup>, 2016 to determine a final decision on the validity and goes on to provide details of the petition. In the letter the administrator concludes that "*based on the data collected and the validity of the signatures of the petition, I do hereby deem the petition presented on November 2, 2015 as sufficient based on the data collected and qualified voter signatures on the petition pursuant to s. 140.1(4) of the Municipalities Act*".

#### Document 6

The motions contained in the unsigned minutes of June 29<sup>th</sup>, 2016 clearly indicate the divisive impact surrounding the petition within the community, council and administration. While there may be more issues dividing the community, the petition is certainly a major issue. It is not clear whether this meeting was properly called, or a waiver of notice was signed as this was not in the minute book.

Three motions were included in the electronic copy of the minutes. A motion to terminate the current administrator due to insubordination and a motion to hire an interim administrator and finally a motion to allow the village solicitor to work on the petition

## Meeting with Council

I met with the current council on August 31st and reviewed a list of the non-compliant items, in point form, that I discovered during my inspection. As well during that meeting the following items were discussed in an informal session:

- Records Retention Schedule and record locations
- Referendum Petition
- Petition for the Financial Audit and Management Audit
- Issues facing council and community
- How the Ministry can assist the council moving forward?

The council members indicated that they have hired a new administrator, who started August 30th. The new administrator is not qualified and they have attempted to contract a mentor, however, to date council has been unable to find a mentor who is available.

The council indicated that progress has been made on the following items:

- Assessment roll completion, Assessment notices mailed
- Assessment Annual Return is completed and ready to go, pending appeals. They indicated that a Board of Revision has not been appointed
- Gas Tax Fund information has been completed and returned
- 2015 Annual Municipal Audit has been set for middle of September
- The council is seeking the assistance of a tax collection company, to assist with Tax Enforcement Records

In regards to the Financial Audit and Management Audit, Council indicated that they have been unable to find a firm that will conduct the financial audit. The majority of council members indicated that they felt the Annual Financial Statements and Auditor's Reports completed for the years 2011 to 2014 should be adequate, given the qualifications of the auditors who performed these audits. One council member indicated that both the Financial and Management Audits should be done as per the signed petition. Council stated their solicitor indicated the petition had run its course with the first decision on its sufficiency and no legal authority exists to review the decision on sufficiency of the petition.

The council indicated that the issues facing the community were related to the power to make decisions for the community. They indicated that current and past council members and administrators have been harassed by members of the community and the public that attends council meetings. The council has been unable to get assistance from the RCMP in this matter. It was indicated that council members are involved in law suits with members of the community.

I asked what the council expects from the Ministry to assist the council to move forward. They mentioned the following support items during our conversation:

- Protection for council members and the new administrator from public harassment
- In regards to council meeting decorum, they requested assistance from the Ministry on how to handle these situations
- That the village be allowed to respond in writing to public complaints the Ministry receives
- That the Ministry assist with finding a suitable mentor
- That the Ministry find an auditor that is qualified and available to undertake a financial audit

## CONCLUSIONS

### Council Responsibilities

Records indicate that during 2016 and specifically at the May 9<sup>th</sup>, 2016 regular meeting, the council have been informed regarding their legislative responsibility to sign a Public Disclosure Statement, adopt a council procedure bylaw and establish a code of ethics for employees.

I found correspondence from advisory services in regards to the new legislation, as well as, documents pertaining to an informational session with advisory services representatives. However, council to date have failed to comply with this legislative requirement.

It is clear that the community is divided and this has placed stress on both the stability of council and its administration. On June 29, 2016 the council terminated their administrator due to insubordination, which appears to be related to the petition and the report by the administrator.

When I review the list of deficiencies, it is clear council members have failed to understand and carry out all of their responsibilities and legal authority as a council. Council members with different perspectives and priorities, have to work together for the common good of the community.

The many resignations which has affected both council and administration is a significant factor in the failure to carry out their responsibilities. This has also resulted in the dysfunctional council and administration that currently exists and support and guidance is required to improve the current status. However, the current and any future council also needs to make a strong commitment and effort to carry out these responsibilities in an environment of transparency with the public.

### Administrator Responsibilities

There have been eight different administrators, acting administrators or interim administrators employed through resolutions of council since May 1<sup>st</sup>, 2013. Most of these individuals have not been qualified and while mentors were established by resolution for most, it appears only 1 mentor was in a position to provide the assistance that was required. However, the term of the mentor appears to end with the resignation of the administrator and a new mentor is contracted when required for the next administrator. A review of documents reveals that some mentors appeared to be contracted to focus on specific issues within the village, such as tax enforcement.

A few of the administrators were qualified and the state of the records, specifically minutes reviewed, improved during the periods from December 2013 to June 2014 and January 2015 to March 2015.

This high rollover of administrators, with most leaving due to resignation, is a clear signal and this needs addressing both in the recommendations of this report and future actions. The state of the records of the village today, is in my opinion largely due to this issue. Time extension bylaws have been passed by council pertaining to the 2015 financial statements and auditor's report and 2016 Assessment Roll completion.

Future administrators that are not fully qualified will need a mentor that is enabled to provide full support. The council/administrator relationship is so important to the health of municipal government. Once council has set a direction for the administrator, it needs to ensure the administrator has the resources needed to do the work, it must monitor that the work is being done, and measure the outcomes of the work against its expectations. If council gives clear formal direction, provides the necessary resources, and follows up well, it sets the administrator up for consistent success. This relationship affects both citizens and the community, for better or worse.

To assist council with carrying out their legal responsibilities, the administrator must ensure the necessary advice and information is provided to council members.

### **Preservation of Records**

The municipality has adopted a records retention schedule, which I found a copy of in the village policy documents. I also found a signed record destruction schedule in the 2015 minutes with a 2007 date attached to it. The bylaw was passed by council at the April 7, 2015 regular meeting.

The municipality has recently moved their records from the old village office, to the new office in the former cornerstone credit union building. Both the interim administrator and Acting Mayor for the Village of Lestock indicated that this recent move may have affected the status and organization of the records. An indication was provided they would attempt to locate any missing records that I am unable to locate during my inspection.

Council and the administrator should review the records retention schedule document to be aware of the various records and the retention timeline schedule related to these documents, especially the documents which need to be retained permanently.

To date I have not been notified that the village had located additional records for inspection.

### **Full Legislative Compliance**

While the Village of Lestock is currently working on becoming compliant on the 2015 Annual Municipal audit, Gas Tax Grant and Assessment Roll completion, there current interim administrator is only working part time on these items. The new administrator is not qualified and does not start until August 30<sup>th</sup>. A mentor will be required to provide support services until the administrator is qualified.

The state of the records in my opinion is not current and approximately 4 months overdue when considering normal municipal administration work flow schedules. Realistically it will take at least 3 months for the new administrator, with mentor support services, to complete these major tasks in an attempt to reach a compliant state.

While 3-4 months would be a reasonable time frame to dramatically improve the current state of the records of the municipality; full legislative compliance is dependent on the cooperation of council members as well, both in understanding and fulfilling their legislative responsibilities.

## Financial Audit and Management Audit

In order to better understand the different type of audits referred to in legislation, I have provided some information to detail and clarify the purpose and scope of these audits.

### 1. Annual Financial Statements & Auditor's Report (185(1) of the MA)

<ul style="list-style-type: none"> <li>Improper or unauthorized transactions</li> </ul>	<ul style="list-style-type: none"> <li>Theft or misappropriation of funds</li> </ul>
<ul style="list-style-type: none"> <li>Non-compliance with the MA, bylaws</li> </ul>	<ul style="list-style-type: none"> <li>Error</li> </ul>
<ul style="list-style-type: none"> <li>Fraud</li> </ul>	<ul style="list-style-type: none"> <li>Debit Limit</li> </ul>

The purpose of the annual municipal audit is to add credibility to the reported municipal financial position and performance of the municipality. Ultimately, the auditor must be satisfied that the financial statements of the municipality present fairly in all material respects the financial position and results of its operations and cash flows in accordance with generally accepted accounting principles for public sector entities.

The Village of Lestock has appointed auditors to complete this type of annual audit for the year's 2012 to 2014, with the 2015 financial statement and auditor's report outstanding. No Auditor Management letter was found for the years 2012 and 2013. These documents should be retrieved from the Auditor and a copy provided to the Ministry.

### 2. Financial Audit (140(1) of the MA) (*Forensic Audit*)

<ul style="list-style-type: none"> <li>Improper or unauthorized transactions</li> </ul>	<ul style="list-style-type: none"> <li>Theft or misappropriation of funds</li> </ul>
<ul style="list-style-type: none"> <li>Non-compliance with the MA, bylaws</li> </ul>	
<ul style="list-style-type: none"> <li>Fraud</li> </ul>	

A forensic audit and a financial statement audit have separate objectives that do not overlap. A forensic audit would be requested if you suspect asset-theft fraud or misappropriation of assets. Forensic accounting is a specialized branch of accounting that requires training in fraud detection. A forensic auditor examines a company's system of internal controls to identify any weaknesses in the controls designed to safeguard assets and to determine whether anyone in the company has exploited control weaknesses to misappropriate assets for personal gain.

### 3. Management Audit (140(2) of the MA)

<ul style="list-style-type: none"> <li>Review performance and operation</li> </ul>	<ul style="list-style-type: none"> <li>Recommend appropriate solutions</li> </ul>
<ul style="list-style-type: none"> <li>Evaluate operations to determine if they are undertaken economically, efficiently and effectively</li> </ul>	<ul style="list-style-type: none"> <li>Investigate and identify issues related to the policy, organization, operation or administration of the municipality</li> </ul>

A Management Audit is the systematic examination of decisions and actions of the management of an organization to analyze its performance (*council and administration*). It mainly examines non-financial data and action in order to audit the efficiency of the management team. It evaluates the organization's managerial aspects like organizational objectives, policies, procedures, structures, controls and systems in order to check the efficiency or performance of the management over the activities of the organization. The aim of the audit is to draw lessons for the future.

It is apparent that council members and administration are confusing a management audit with the annual financial statements and auditor's report.

In the April 6th letter to the Representative of the Petitioners it is indicated that the cost associated with performing the management audits for a second time, is a major concern of council. The average cost to prepare their financial statements and Auditor's Report for 1 year ranges between \$4,500 and \$6,500. In their view the cost for a full management audit for the years 2011 to 2015 would exceed \$25,000.

It is difficult to estimate the cost of a true management audit for that time period, as there was a lot of resignations on both council and administration. It may consume a significant amount of time to attempt to review policy, procedures, controls and systems and provide a performance analysis. It would be difficult to gather information from council members and administrators who have resigned. It is reasonable to expect a comprehensive Management Audit would exceed \$20,000 in cost.

The cost associated with a financial audit is also not easy to predict, it appears one quote the village received was at a rate of \$105.00 per hour. The cost of a financial audit (forensic audit) for the years 2011 to 2015, would likely be in excess of \$15,000. From my discussions with council, the majority see little benefit from a financial audit, but have verbally indicated a willingness to proceed if required. The village would expect assistance from the Ministry to contract a qualified auditor.

In regards to a Financial Audit, my inspection of records for the years 2012 to present and my subsequent meeting with council, revealed no information related to theft or misappropriation of assets or funds.

In regards to a Management Audit, my inspection of the records and meeting with council revealed that confusion exists between the Annual Financial Statements & Auditor's Report and a Management Audit. A Management Audit could provide additional clarity related to:

- policy, procedures or lack thereof,
- evaluate operation or actions of management and administration of the municipality,
- evaluate controls and systems,
- recommend appropriate solutions.

My inspection and this report focuses on legislative compliance and whether management (council and administrator) complied with their legislated responsibilities.

The Petition itself is silent on the reasons why a Financial Audit and Management Audit is required, or why the 2011 to 2015 years were indicated in the petition.

Finally, a legal issue may exist where no legal recourse exists for council or the administrator to revisit the sufficiency of the petition as this was already determined in April 2016.

**Bank Statements and Cash Balances – June 30, 2016**

Date	Levy	Bank Acct
2016-06-30	120,669.32	General
2016-06-30	672.85	Savings
2016-06-30	1,832.73	Equity
2016-06-30	5.00	Member
2016-06-30	5,335.89	Term -Jun 10, 2018 Maturity
2016-06-30	4,219.07	Term -Oct 30, 2017 Maturity
<b>Total</b>	<b>\$132,734.86</b>	

**Tax Arrears**

Date	Municipal Levy	School Levy	O/S	Allowance	Municipal	School
2016-07-31	None	None	212,520.27	90,000	182,900.82	26,619.45
2015-12-31	105,211	12,251	206,757.02	90,000	179,284.43	27,472.59
2014-12-31	105,102	12,250	176,163.51	90,000	151,087.13	25,076.38
2013-12-31	105,164	12,266	133,809.39	75,000	112,705.90	21,103.49
2012-12-31	87,892	13,873	103,509.11	61,000	85,152.27	18,356.84

1. Each year the auditor has increased the allowance for uncollectible municipal taxes, I anticipate an increase will be deemed appropriate for 2015 as the tax arrears have increased.
2. The assessment roll for the municipality has not change much, in 2015 the SAMA maintenance only shows 1 property had an assessment change.
3. Assessment notices were found for 2012 and 2013.
4. Taxes levied match Base Tax Bylaw and mill rates approved (mill rate has not changed from 31 mills)

**Water and Sewer Fees & Charges**

Date	W&S Billings	O/S	Allowance
2016-07-31	15,189	24,966	1,500
2015-12-31	32,937	23,064	1,500
2014-12-31	29,997	14,008	1,500
2013-12-31	40,704*	17,123	1,500
2012-12-31	34,265	6,711	0

\* Higher than normal

1. Water Rates on file in Bylaw 3-2012 show water rates as follows:
  - a. 2013 -\$32.00 per month Base Rate for 4,500 gallons or less, \$1.00 per 1000 gallons,
  - b. 2014 -\$37.00 per month Base Rate for 4,500 gallons or less, \$1.00 per 1000 gallons,
  - c. 2015 -\$42.00 per month Base Rate for 4,500 gallons or less, \$1.00 per 1000 gallons,
2. The water amounts applied in 2015 and 2016 have been at a rate of \$101.00 per quarter or \$33.66 per month which is lower than the water rate bylaw,
3. The sewer rate being applied matches the residential rate in Bylaw 2-2012.

## RECOMMENDATIONS

1. That a person be appointed by the Minister to supervise the village council pursuant to subsection 400(1) of The Municipalities Act (the MA) until June 30, 2017. The appointed supervisor would be expected to:
  - a. support and guide the council in an effort to ensure it complies with legislation regarding public disclosure statements, establishing a council procedure bylaw and establishing a code of ethics policy for employees,
  - b. attend council meetings and advise council in municipal governance and legislative responsibilities, to enhance their information and decision process,
  - c. educate council regarding transparent governance,
  - d. educate any newly elected council this fall in municipal governance; and
  - e. the supervisor needs to be provided the ability or authority to veto council decisions that are outside of legislation,
  - f. that the supervisor reports to the ministry regularly as required.
  
2. That the Village of Lestock Council contract a mentor for the new administrator recently appointed by the village council, as this individual is to the best of my knowledge not qualified; and
  - a. that Advisory Services and Municipal Relations (Advisory Services) assist the village in finding an available mentor,
  - b. that the mentor provides support services to council and administration to assist them in their efforts to attain legislative compliance on the following items:
    - i. legislated responsibilities,
    - ii. 2015 annual municipal audit,
    - iii. 2016 assessment notices, appeals, annual return / assessment confirmation,
    - iv. gas tax grant claims and IIP plan submissions,
    - v. tax enforcement process,
    - vi. other non-compliant items mentioned in this report,
  - c. that the mentor report regularly to the supervisor, as required,
  - d. in order to deliver consistent support services to administration and the municipality, in the future it is important that any required mentor be contracted as needed and not end with an administrator resignation.
  
3. The events and issues surrounding the Petition for a Financial Audit and Management Audit for the years 2011 to 2015 are complicated and legal interpretations likely exist on both sides. Confusion exists regarding the purpose and types of audits called for in the petition.

During my inspection I discovered no information either from the petition, council or administration which indicated a financial audit is warranted due to theft or misappropriation of assets. I recommend no financial audit is currently warranted.

In regards to a Management Audit, this report contains the non-compliant items discovered for the years 2012 to 2016. The mandate of this inspection and report does not include a review of controls and systems or evaluation of the performance of the village against its stated plans and policies or provide reasons for variance.

The Minister may wish to order a Management Audit for the years 2013 to 2016 for greater clarity, however, the money for such a report may be better spent on the supervisor and the training of a new council after the October 2016 Municipal Election.

As well the Supervisor could recommend a Management Audit to the Minister, should other deficiencies be discovered during his/her appointment.

4. Workplace harassment of council members and municipal employees is a serious matter. Advisory Services and the Supervisor should provide information to council to assist with:
  - a. creation of a workplace harassment policy; or
  - b. information or recommendations to assist with revisions to the current harassment policy to ensure it meets the requirements of the law,
  - c. provide or arrange for prevention training and best practices to use when dealing with harassment,
  - d. best practices for council to use to minimize or manage public disturbances or harassment during council meetings.
  
5. If required by the Minister, it may be beneficial to have the Village of Lestock Council provide regular reports to the ministry. These reports would provide details regarding ongoing efforts to attain and maintain compliance with legislation and the responsibilities of council and administrator.

Management and Administration of the Village of Lestock has been dysfunctional in recent years, due to the many resignations of both council members and administrators. The records indicate that much of this change or instability has occurred after October of 2013.

While this may not be the sole reason for the non-compliance by the council and administration; the instability that has existed during the past three (3) years plays a significant role in this result.

The recommendations developed and put forward in this report are for the purpose of providing strong support and assistance to the village. So that both current and future council and administration may meet their legislative responsibilities and provide transparent governance.