

THE MUNICIPAL BOARD OF MANITOBA
REPORT AND RECOMMENDATION

REPORT DATE: February 3, 2020

Order No. B-20-001

File No. 19B2-0001

MATTER: Planning District Application for Dissolution
The Planning Act, S.M. 2005, c.30,
Section 28(1)

LOCAL AUTHORITY Lac du Bonnet Planning District

HEARING DATE: October 30, 2019

PANEL: Jeff Bereza, Chair
Diane Stasiuk, Member
Elisabeth Saftiuk, Member

PARTIES AND APPEARANCES:

For the Lac du Bonnet Planning District

Grant Hein
Scott Jones, Chair
Loren Schinkel

For Town of Lac du Bonnet

Ted Mathers
Gordon Peters
Keegan Sveinson

For the Rural Municipality of Lac du Bonnet

Loren Schinkel

Presenters

Cindy Kellendonk
Al Penner
Gus Wruck
Carly Zarecki

INTRODUCTION

The Lac du Bonnet Planning District (the “Planning District”) has made an application to dissolve (“Dissolution Application”). Objections have been made to the Dissolution Application.

The former Minister of Municipal Relations (“former Minister”) referred the Dissolution Application to The Municipal Board for a public hearing which has taken place. We now submit to the Minister of Municipal Relations (“Minister”) this Report setting out our Recommendations on the Dissolution Application under Section 28(3) of *The Planning Act* (the “Act”).

BACKGROUND

The Planning District is presently composed of two Board members from the Town of Lac du Bonnet (the “Town”) and three Board members from the Rural Municipality of Lac du Bonnet (the “RM”). The following is a brief chronology of events pertaining to the Dissolution Application:

February 25, 2019: The Board of the Planning District (the “Planning Board”) passed a Resolution to dissolve the Planning District.

March 13, 2019: The Planning Board passed a Resolution requesting that the Minister revoke the subdivision authority granted to the Planning Board pursuant to Section 120 of the Act and transfer all active subdivision files to the Community and Regional Planning Office in Beausejour (the “Regional Office”).

March 26, 2019: The RM passed a Resolution to immediately withdraw its funding support to the Planning District.

April 18, 2019: The Planning District held a public hearing to receive representations on the proposed dissolution. The total attendance is estimated at 80 plus persons. From the 22 persons who signed in, 15 were against the dissolution.

April 18, 2019: The Planning Board applies to the former Minister to dissolve the Planning District.

June 26, 2019: The former Minister refers the Dissolution Application to The Municipal Board under Section 28(1) of the Act.

August 21, 2019: The Planning District and RM entered into an Agreement for the RM to provide planning services to the Planning District for the benefit of the RM.

October 30, 2019: The Municipal Board held a public hearing on October 30, 2019 to receive representations on the Dissolution Application in accordance with Section 28(2) of the Act (the "Hearing"). Approximately 100 persons were in attendance at the Hearing. There were four presenters.

ISSUES

The purpose of this Report and Recommendation is to assist the Minister in deciding, under Section 29(1) of the Act, whether or not to dissolve the Planning District. The relevant sections of the Act read as follows:

Application for alteration or dissolution

26(1) The board of a planning district or the council of a member municipality may apply to the minister to

- (a) change the boundaries of the district; or
- (b) dissolve the district.

Referral to Municipal Board

28(1) The minister may refer an application under section 26 to the Municipal Board.

Consultation and hearing

28(2) Upon receiving the application, the Municipal Board must hold a public hearing to receive representations on the application, including its financial and service delivery implications, after giving notice of the hearing in accordance with section 168.

Recommendation to minister

28(3) After holding the hearing, the Municipal Board must make a recommendation to the minister on the application.

Decision

29(1) After considering the application, and the recommendations of the Municipal Board if the application was referred to it under section 28, the minister may

- (a) change the boundaries of a planning district;
- (b) dissolve a planning district; or
- (c) amalgamate two or more existing planning districts into a new planning district.

Amendments to regulation

29(2) The minister must amend the regulation establishing planning districts to reflect a decision made under subsection (1).

Distribution of assets and liabilities

29(3) If the minister dissolves a planning district or changes the boundaries of a planning district to allow a municipality to withdraw from the district, the minister may also determine the manner in which the assets and liabilities of the district are to be distributed or allocated.

PRESENTATIONS AND SUBMISSIONS

As a preliminary matter, the Board was made aware at the Hearing that the Town members on the Planning Board were not given a copy of the Planning District's written presentation in advance of the Hearing. Although the Town remained prepared to proceed with the Hearing, the Board is mindful that the Town was not given an opportunity to properly challenge the written allegations, assertions and budget figures presented by the Planning District and RM.

THE LAC DU BONNET PLANNING DISTRICT

Scott Jones (the "Chairperson"), Grant Hein and Loren Schinkel appeared on behalf of the Planning District. Mr. Hein, RM Councillor, spoke for the Chairperson on behalf of the Planning District. The submissions from the Planning District are summarized below:

- The Planning District was formed on October 13, 1982 by Order-in-Council under the authority of the Act (1976).
- Member municipalities of a planning district must agree on the proportion of funding, if any, that each municipality must contribute to meet the expenses of the district (Section 22(1) of the Act).
- The funding agreement for the Planning District is based on a per capita formula with the RM funding 75% and the Town funding 25%.
- The 75/25 allocated funding amounts are combined with funding received from building permits, as well as variation and conditional use application fees to meet operational needs.
- Planning District budgets are presented to the Town and RM for approval in November/December each year.
- Planning District budgets (proposed and actual) from 2014 to 2019 reveal substantial increases in funding requirements for both the RM and Town.

- The Planning District budgets from 2014-2019 from the audited financial statements reveal the budget increasing by almost \$100,000.
- There are no completed audited financial statements for 2018 because the accountant assigned to the audit left the accounting firm and the matter remains unresolved.
- The 2018 actual and 2019 proposed budget figure increase from \$75,320 to \$108,121.25 was due, in part, to the Planning District having to relocate into a new facility.
- The proposed budget figures were prepared by the former Planning Administrator.
- Since 2014, the RM levy increased from \$21,000 in 2014 to \$108,121.25 in 2019. The Town levy increased from \$7,500 to \$25,373 during that same period.
- From 2014 to 2018, inclusive, the RM permits generated significantly more revenue than what Town permits generated. For example, in 2014, 13 Town permits generated \$8,230 and 177 RM permits generated \$69,618.
- Subdivision applications during the years 2015 to 2018, inclusive, raised an average annual income of \$2,375.
- In addition to subsidizing rent and amenities, the RM is funding in excess of 80% and as high as 90% of the annual funding costs, with the Town paying substantially less than their 25% allocation.
- The RM is carrying the greatest percentage of the expenses for the Planning District.
- It is not cost effective for RM ratepayers to have the RM funding 90% of the Planning District budget and providing revenues generated from building permits and variation/conditional use fees.
- If the RM took operations in-house and applied building permits and variation/conditional use fees, this would be cost-neutral to the RM ratepayers.
- A cost saving analysis of the Town's building inspection needs and Building permits was completed and reveals that:
 - In 2018, if inspections were done for \$200 per inspection (17 inspections), the Town's costs would be \$3,400 for a savings of \$4,979.
 - In 2019, if the Town had 34 permits the Town's cost would be \$6,800 for a savings of \$18,573.
- There are ongoing staffing and administrative issues at the Planning District as well as duplication in processes such as variations and conditional use applications and hearings.

- In March 2019, the Planning Board passed a Resolution requesting Ministerial Revocation of Subdivision Approving Authority granted to the Planning Board pursuant to Section 120 of the Act.
- All active and new subdivision files are now processed by the Regional Office.
- In March 2019, the RM passed a Resolution to immediately withdraw funding support to the Planning District.
- In July 2019, the reduction in funding forced the Planning District to reduce its operational hours. This resulted in the resignation of the Building Inspector. The contract for the former Planning Administrator was not renewed.
- Efforts were made to try and fill these positions but there were no applicants that qualified for the jobs.
- The Building Inspector was hired by the RM on a full-time basis. Presently, the Building Inspector reports to the Chief Administrative Officer. In addition, the RM has put into place a term Clerk to assist the Building Inspector.
- An agreement was put in place to have the RM contract the Building Inspector to the Planning District.
- The Planning Board contracted an Administrative Assistant and numerous issues with the financial records were uncovered. There were discrepancies in relation to the trust account and how trust monies were dealt with by the Planning District which have since been rectified. There remains some financial discrepancies that have not been completely tracked.
- The Planning District currently has no employees and its current operating account balance is near zero. Its assets consist of some office furniture, lease agreements for copiers and computers and printers, which are currently being used by the Building Inspector.
- The Act and Municipal Legislation is clear in that both the RM and Town retain all jurisdiction related to zoning, building permits, variation and conditional use, and development plans.
- It makes financial sense for the RM to move planning services in-house.
- The Town has contracted a firm to complete a comprehensive review of its development plan and zoning by-laws.
- The Town has moved forward by Resolution to contract the building inspector services from the Rural Municipality of Alexander (the "RM of Alexander").
- The RM is also moving forward with a review of its development plans and zoning by-laws.

- By reducing Planning Board expenses, cost savings are immediate to both the Town and RM.
- Having the Regional Office deal with subdivision files has reduced duplicative inefficiencies and costs. This has significantly streamlined processes and services.
- The Planning District was not providing value for funding and was at times dysfunctional in providing quality service to its ratepayers. Elected officials have a primary fiduciary responsibility to their ratepayers.

THE RURAL MUNICIPALITY OF LAC DU BONNET

Loren Schinkel, Reeve of the RM, presented the following submissions:

- The RM is in unanimous support of dissolution.
- There are two concerns that the RM Council would like to address:
 - cost efficiency for RM residents
 - providing consistent effective service delivery for RM residents
- The RM is paying 80-90% of the Planning District's operational costs, while also subsidizing the rent and utilities. This is not good value for RM ratepayers.
- In 2016, the RM also started to contribute \$32,000 in trailer fees.
- In addition to the \$108,000 allocated to fund the Planning District, the RM contributes approx. \$71,000 from permits, variation and conditional use fees so the RM funding is closer to \$180,000. The RM has taken these matters in-house and hired a Building Inspector and support staff.
- The RM retains authority to provide services under the Act and by-laws, including zoning, permits, inspections, and development.
- With the RM not funding the Planning District and accruing fees from building permits, variation and conditional use applications, these funds would come back to the RM and be cost-neutral.
- Going in-house provides a seamless, open, transparent, administrative process for RM ratepayers.
- There have been ongoing service delivery problems within the Planning District.
- Some operational deficiencies have been addressed by moving development files to the Regional Office.
- The Regional Office is professional and efficient and provide services to the RM at no cost.

- Funding and service delivery concerns at the Planning District have existed for years. The new Planning Board rejected the status quo and made the bold decision to direct change.
- The Planning Board is showing leadership and having the fortitude to say that “our citizens deserve better”.
- Under Section 162 of *The Municipal Act*, Councils are responsible for yearly financial plans. Escalating budgets have a direct impact on the taxes that our residents pay so value for funding is critical.
- With the RM taking over the services that it has legislative control over, budgetary accountability will be at the forefront, costs will be monitored, and service to our residents will continue to be improved.
- Dissolution is the correct course of action.

Mr. Schinkel acknowledges that if the Planning District were to dissolve, the RM would lose the ability to have any input on development within the Town. He adds that by bringing planning matters in-house, the Planning Board is no longer involved in day to day management over planning. He states that the direction of the Planning Board is where the problems arise. He admits that if there are no resolutions directing people how to do their jobs, you are going to have problems.

Mr. Schinkel clarifies that duplication in services means duplication in how communication worked between the Regional Office and the Planning District. If applications came to the Planning District, often inexperienced staff would have to call the Regional Office for assistance or to answer queries. This resulted in different legislative interpretations, confusion and back and forth communication between the two offices.

He admits that it is up to the Planning District to seek out the necessary skill set of staff serving the public and to give them direction on how to carry out those roles and responsibilities.

Mr. Schinkel clarifies that he is not saying that there should not be a Planning District, but the way it is at present is not working for RM residents. He states that they deserve better than what it is right now. He adds that there are trust issues and does not feel that they are capable of being worked out.

The following is a summary of the written public submissions in support of dissolution:

- The RM should not be spending \$108,000 to have signing authority when the return is \$2,400 per year over the last five years. This is not good value for RM tax dollars.
- If the RM hires a Building Inspector and Clerk and revenue pays for them, then the \$108,000 can be spent on roads, recycling and many other valuable services.
- There would be financial savings with a dissolution in terms of office space, employee wages and benefits, furniture and supplies.
- The Planning District is not independent of both the RM and Town. The same Councilors in the RM also sit on the Planning Board, which presents a conflict.
- Bias is a serious issue preventing consistency and uniformity in decision-making.
- Some developments did not happen due to Planning Board members who were self-serving or who had conflicting interests.
- Continuity is a key factor in long term planning success and inconsistencies between Planning Boards is a problem.
- There are inexcusable delays in processing applications through the Planning District. Processes are often inefficient, confusing and duplicative.
- The Planning District needs a “planner”. The lack of skilled staff and constant staff turnover have slowed and discouraged development.
- Elected officials with no background training or experience in planning should not be responsible for making decisions on significant investments into an economy.
- Successful planning and development requires professionalism, qualified and trained decision makers, a set of rules that provide continuity for all developers and the community itself, and the ability to consider all of the impacts a proposed development will have on the community, both economically and environmentally.
- There can only be a true Planning Board if it undergoes restructuring to allow for proper staffing, improved efficiency and consistency and gain total independence of both Councils.
- The Town and RM do not work together in a positive manner. Joint Council Meetings are fractured which is also reflected in the Planning District.
- Dissolving the Planning District and transferring development applications and processes to the Regional Office, which employs staff that are unbiased, licensed and trained planners that work in a regulated and disciplined government department, is the best choice for the Town and RM.

- Should a decision be made not to dissolve the Planning District, there should be a change to the structure as to who is appointed as Planning Board members. No members of Council should serve on the Planning Board. Private citizens without bias or personal conflicts should be appointed under close scrutiny and sign declarations of no personal, financial or self-serving interests.

THE TOWN OF LAC DU BONNET

Gordon Peter, the Mayor of the Town, presented the following submissions:

- The RM put forward the Resolution to dissolve the Planning District with no discussion with the Town. The Town was not in favor.
- Prior to the last election, the Town had a very good working relationship with the RM in regard to Planning District activities.
- When the RM began to insist on dissolution, the Town took the position not to dissolve the Planning District but to allow the RM to withdraw from the Planning District. The Act does address the reassignment of boundaries.
- He feels there are other communities that would benefit from working together with the Town in a Planning District if the RM did not want to be involved.
- In response to initial budget figures previously put forward by the Planning District at the April 2018 hearing, the Mayor states that:
 - The initial budget numbers do not reflect reality and were never adequately reviewed nor discussed with the Town.
 - The trust funds were all funds for the RM. The Town did not have trust funds
 - The budget escalations were initial budget figures that were prepared by staff but is not a true budget.
 - The RM levy includes a separate contract between the RM and Planning District to provide extra services in the trailer parks for \$32,000.
 - The costs didn't jump as much as has been presented.
 - As to statements re: costs going up by \$20,000 per year, the expenses for 2013 were \$163,776 and in 2018 were \$179,613 which is a difference of \$15,837 (over five years) or an annual average increase of 1.6% per year. This increase is lower than the average Consumer Price Index increase for that period.

- The 2018 value of permits for the RM was \$8,811,043 or 96.8% of the total levy and the Town was \$370,189 or 3.2% of the total levy. Of the total levy to support the Planning District the Town levy was: 2013 – 25%, 2014- 26%, 2015 – 22%, 2016 – 17%, 2017 – 19%, 2018 – 16%.
- The Town levy was 16-26% of the total levy when the Town permit values were only 3.2% of the total levy. It is arguable that the Town was getting a bad deal and that the RM was getting a good deal.
- The Town has no objection of supporting this imbalance as the Town believes that having a Planning District is good for the community and region. Being a good neighbor is what community is all about.
- Budgets need to be properly presented, reviewed, trimmed and put in order. That did not happen here.
- The Planning Board did approve a draft 2018 financial statement but never received a final form from the accounting firm.
- Some of the staffing issues were due to treatment by Planning Board members.
- The real issue here is about control. There will be minimal cost savings.
- The April 18, 2019 hearing was an embarrassment for the minority members of the Planning Board. No written presentations were allowed and there was no opportunity for questions to be answered.
- To date, there has been no discussions with the Town to provide Planning District services to the Town. In fact, there has been great effort to block the Building Inspector's services to Town users.
- The Planning District has already been dissolved in function. It effectively ceased operations in July/August 2019. The Town has had to retain outside help from the Winnipeg River Planning District (focusses on the RM of Alexander) to deal with building permits. The Regional Office is also assisting the Town.
- Dissolving the Planning District would be very detrimental and a step backward for our community and region.
- To do anything that "tears communities apart" is a detriment.
- Dissolution would result in the provision of less services.
- There have been issues but issues can always be dealt with. It takes leadership to make changes and the Town is prepared to see that happen.
- What we are doing now may be cheaper, but for the sake of the community at large. There is greater value that would be lost if there is no Planning District.

- The Town requests that the Planning District not dissolve. If the RM desires to exclude itself, then the Town requests that the RM be allowed to withdraw from the Planning District and that the Town be allowed to find other partners in the Region to carry on and continue to operate with different boundaries than what presently exist.
- If the Planning District is allowed to continue, then the assets effective March 13, 2019 should remain with the Planning District, other than the funds held in trust for RM ratepayers.

The following is a summary of the written public submissions opposing dissolution:

- Dissolution of the Planning District needs to be agreed upon by the Town and RM. Decisions must be made that are in the best interests of both. It is irresponsible for the RM to unilaterally make a decision to dissolve.
- There has been no good faith negotiations, nor a comprehensive financial, socio economic and environmental analysis or fact based rationale to justify the RM's unilateral actions.
- The RM's decision was based on an incomplete draft budget.
- It is critical to have the Planning District, an important source of knowledge and expertise. Council members cannot have full knowledge or understanding of all the intricacies of various departments and issues, nor are they experts in community planning or development.
- The Planning District is a non-biased voice that represents the best interest of all the taxpayers in the area.
- The Planning District provides structure and continuity to our elected officials to ensure that we are not governed by an RM Council who are driven by personal agendas with little to no regard for the future.
- Due diligence has not been carried out with respect to the cost burden on the RM rate payers and the potential for random, unchecked development on the river system.
- The RM claims that the Planning District is unsustainable. A review of a five-year historical operational costs show increases were in line with the cost of living.
- It is important to follow ethical practices, have sustainable land development and to be environmentally responsible stewards of the land.
- A decision to disband affects all rate payers who need to be involved in the process and agree to it.
- The RM's decision-making resulted in a loss of services to the Town residents.

- A Planning District intersects with economic development and growth. Municipalities have to deal with a competitive local and global economy and often struggle to engage effectively in attracting, retaining, and expanding business. Having municipalities sharing resources is crucial to their sustainability and growth.
- Additional costs and delays for developers and landowners were caused by the RM refusing to give up control in a number of areas e.g. drafting development plans and zoning enforcement. The Planning District was to make recommendations to the RM for approval/disapproval but the RM would not relinquish control.
- The RM has repeatedly refused to hold joint council meetings with the Town on shared services. At no time did the RM raise any concerns or make an effort to hold good faith discussions with the Town over the Planning District and other shared services before making unilateral decisions.
- The Planning District has served both the Town and RM for over 30 years. It was working towards the benefits and efficiencies of expanding the district.
- The community is not just an RM only community and it is important for sustainability and healthy growth that the RM and Town share critical services.
- There is a cost to protecting our assets and investing in our future. The RM and Town must partner, not only with each other, but look to other municipalities where possible on these critical services to best serve all our interests as a whole.
- Electing an RM Council does not mean the taxpayers approve of this move. We did not ask for it. It was never discussed during the election campaign.
- The Planning Board should be immediately re-structured to ensure an ethical, responsible and equitable leadership. Possible Planning Board structures might include equal membership from Town and RM with members at large from each community. Equal membership from Town and RM and community may also include one member from the Community Development Corporation (the "CDC").

PRESENTERS

There were four presenters at the Hearing. Each presenter was opposed to dissolution. The following is a summary of their respective submissions.

Cindy Kellendonk

Ms. Kellendonk, a former member on the Planning Board for four years, clarified that the Planning District has a December 31st year-end so draft budgets are worked on in November and are not completed until the end of January, only after receiving audited financial statements that are then sent to the municipalities for approval of the levy.

In regards to alleged trust accounts anomalies, Ms. Kellendonk notes that the former Planning Administrator was brought in for her exceptional skill set, knowledge and very ethical work performance. She did find some trust anomalies and worked with the accounting firm to deal with same. There are processes for tracking trust accounts and that everything was above board, ethical and nothing was missing.

Ms. Kellendonk proceeded to summarize what the Planning District means to the community and initiatives that would be impacted by dissolution:

Comprehensive Approach: The Town and RM need to look at sustainable growth, economic development and improved quality of life. The Planning District is not just about issuing permits. It also involves social, economic, and environmental components. Planning provides an organized, focused, responsible approach to community and regional growth. District planning is a proven method of inter-municipal communication, collaboration, and capacity building that cross municipal boundaries. Without a Planning District in the region, there can be no comprehensive plan.

Trailer Park Program: This program was originally managed under the Planning District then was taken over by the RM in the early 1990s. It was mismanaged by the RM and brought back to the Planning District in 2015. The Planning District doubled revenues in the first year up to an additional \$110,000 plus in the following years.

Knowledge Hub: The Planning District is a knowledge center. With qualified staff, more assets results in more revenue generated through property taxes for road building and other necessary services.

Economic Development: The Planning District intersects heavily with economic development. The former Planning Administrator had been working on a regional plan to expand the Planning District (the former Planning Administrator was unable to present the proposal for expansion due

to her passing). The past Planning Board was also working toward partnering with the CDC to promote sustainable socio economic growth for both the Town and RM.

Records and Information Management Project (the "Project"): The former Planning Administrator was assigned Project Manager. She was in the final stages of the Project which was custom-tailored to cover the Planning District and RM administrative records, but also included the Fire Department and Public Works. Approximately \$8,000 has been spent but the present status of the Project is unknown. If the supplier is hired on a \$1300 per diem basis, this will be far more costly than doing the work internally.

Environmental Study: There is a moratorium on further development on the Lee River and Pinawa Channel. The RM has had too much power and we have gone way over the limits with the moratorium. Phase I of the environmental study was completed and was to provide a framework to present to potential regional partners for consideration of cost sharing of Phase II. The environmental study was to provide an environmental status of the region followed by an environmental plan to support sustainable growth and mitigate identified environmental issues. The study was also critical to updating our development plan and zoning by-laws.

Treaty Land Claims: There are five treaty land claims in the region. First Nations have indicated a preference to deal with one knowledge centre such as the Planning District to deal with land use concerns, issues and barriers. They do not want to deal with the whims of Councils that change every four years and may have different opinions, agendas, and points of view.

Sharing Resources: No municipality can do everything and is not a jack of all trades. The RM and Town must share resources and partner not only with each other, but look to other municipalities where possible on critical services to best serve all community interests as a whole. There are no efficiencies with dissolution as the municipalities will still have the same workload, and have to pay for staff, equipment and computers.

Ms. Kellendonk submits that the Planning District has provided valuable service for over thirty years and has survived fifteen elections. She notes that the Province supports planning districts and asks the Board to support the Planning District and goal of a sustainable, healthy and prosperous community.

Gus Wruck

Gus Wruck served as a Reeve on RM Council and is a former member of the Planning Board. He proposes a third option, which is to expand the Planning District area that would include all of the area from Lake Winnipeg to Whitemouth. He adds that an expansion would result in a larger board and costs would be shared. This approach would remove some of the issues and arguments occurring at the local level.

Carly Zarecki

Carly Zarecki is a member of the community and views the Planning District as a benefit to the community as a whole. She plans on investing more in the community she grew up in that offers fairness and voices to be heard. She notes, however, that when information is handled at RM meetings, there is no opportunity to speak and share views on issues. She adds that there is so much secrecy rather than transparency, resulting in an inability to interpret information or know what the plans are for the community since the information is not being provided.

Ms. Zarecki states that having the Town and RM involved “keeps things level” and prevents one-sided representation. She adds that tourism is important and that we can’t market our community without marketing the Town and RM together “as one”. For growth, we need to act “as one”. She is in support of retaining the Planning District and likes the idea of expanding it.

Allan Penner

Allan Penner states that, over 37 years, he has lived in the community as a seasonal and permanent resident. He notes that the issues today are “just the tip of the iceberg”. As long as he has been a resident, the Town and RM have argued about everything, including the costs of the library, recreational centre, and the CDC. The community is being torn apart.

He adds that Government of Manitoba legislated communities of 1000 or less to amalgamate. This jurisdiction escaped that legislative requirement by about 89 persons. This would have solved the problems. He adds that the Minister has authority to mandate an amalgamation and believes this is what should happen here.

Mr. Penner feels that a number of the budget figures presented by the Planning District and RM are fundamentally flawed. He also submits that when a corporation (Planning District) is in trouble, it is not acceptable for the leader of an entity that controls 60% of that corporation to blame cost escalations on matters they were fundamentally in control over from the day they were elected. He also adds that the problems with mismanagement of staff and improper training lies with the RM that holds the 60% control.

He states that both sides need to be told to “get your act together”. There is a responsibility to retain the Planning District and either temporarily or permanently transfer work to the Regional Office.

ANALYSIS AND RECOMMENDATION

The Board has carefully considered all of the presentations, both in support of, and opposition to, dissolution of the Planning District.

The Board acknowledges that the decision-making power within the Planning District is weighted in favor of the RM over the Town through membership voting control (three versus two). However, the actions to dissolve appear to have been driven solely by the RM Board members acting unilaterally. No efforts have been made towards good faith discussions or negotiations with the partner Town members on the Planning District on the issue of dissolution.

The RM members on the Planning Board state that costs at the Planning District are not sustainable. The Board notes, however, that the Planning District budget spreadsheet shows an actual positive net income in 2018. A number of the bank records in the Planning District’s written presentation also show positive savings account balances, but these amounts do not appear to form part of the income totals in the budget spreadsheet. In addition, the revenues that the Planning District independently generates for the RM with the Trailer Park Program does not appear to be accounted for in any of the financial data. The Board notes that there were no audited or unaudited financial statements produced at this Hearing.

The Board acknowledges that the Planning District could not provide actual budget figures for 2019 at the time of this Hearing. The evidence reveals that the proposed 2019 budget figures were prepared by staff but neither of the partner municipalities confirmed whether the 2019 proposed budget was approved by the Town. In any event, the Board questions the reliability and

accuracy of the 2019 proposed budget figures, noting that these figures would likely be skewed since the Planning District was essentially non-operational by mid-2019 and planning and development services had been transferred in-house to the respective municipalities.

On review of the Planning District actual budget from 2014 to 2018, inclusive, the Board notes that total Planning District expenses increased from \$149,892.59 in 2014 to \$179,613.71 in 2018. This is \$29,721.12 over the four years or an average annual increase of \$7,430.28 during that period. The Board does not find these costs to be excessive or unsustainable after taking into account revenues generated through Town/RM levies, permits, zoning, inspections, and other planning and development applications. The budget spreadsheet shows revenues exceeding expenses in 2018.

The RM also alleges that it subsidizes rent and amenities for the Planning District but it is unclear from the budget spreadsheet and presentations the amount of these alleged subsidies.

The RM asserts that dissolution will be net neutral to the RM but the Board was not presented with any actual data or costs to the RM in moving permit and development matters in-house in terms of meeting expenses, staffing levels, salaries, office space, equipment and related expenditures. In addition, the Board did not receive sufficient financial data showing actual cost savings to the Town that would result from a dissolution of the Planning District.

The Board further notes that, apart from the opinions of the RM members on the Planning Board, it was not presented with any direct evidence from staff or an independent expert showing the true financial status of the Planning District. The accountant tasked with the 2018 audit is no longer with the accountancy firm and no one else from that firm was present to give evidence. In addition, the former Planning Administrator who prepared the proposed 2019 budget, has since passed away and has not been replaced.

The Board finds that there is not sufficient or reliable evidence to show that costs at the Planning District are not sustainable, or that dissolution would be net neutral to the RM and result in cost savings to the Town. The Board is also careful not to place full weight on the financial data presented by the Planning District since the Town was denied an opportunity to present a proper and fulsome response to same.

The RM members on the Planning Board also assert administrative dysfunction, duplicity, staff turnover and lack of skills at the Planning District as reasons to justify dissolution. The Board agrees with the arguments that an effective Planning District requires skilled, trained staff. However, it would appear that staffing issues at the Planning District have been self-inflicted. Decisions regarding the recruitment, retention and training of staff lie solely with the Planning Board. It is up to the Planning Board to ensure that proper governance policies are in place, roles are clearly delineated and communicated, and that administration and staff have the requisite skill and knowledge to effectively carry out their respective duties. It is not helpful for the RM members on the Planning Board to complain and lay blame at the staff with whom they maintain oversight, supervision and control.

The Board admits that it is somewhat awkward for it to assess whether or not the Planning District should dissolve when the RM has been operating as if dissolution has already occurred. The RM passed a Resolution to immediately stop funding the Planning District. This appears to have caused a domino effect, resulting in a termination of services to the Town. The Board is advised that the Planning District has a zero operating account balance and does not have employees, noting that the former Planning Administrator's contract was not renewed and the Building Inspector resigned due to lack of funding.

Decisions made by the Planning Board regarding funding and staffing levels have contributed to the staffing issues that the RM now claims to be grounds for dissolution. The Board feels that these issues also rest at the heels of the RM members holding majority control at the Planning Board. The Board notes that the RM appears to have had no trouble moving planning operations in-house at the RM by hiring qualified staff, including hiring a Clerk and the Planning District's former Building Inspector, leaving the Planning District with no staff. The Planning Board is ultimately responsible for funding and staffing and must consider the interests of all ratepayers that fall under the umbrella of the Planning District.

The Board is persuaded by many of the presentations highlighting the benefits in retaining, and possibly expanding, the Planning District in the region. The services provided by the Planning District extend well beyond the administration over permits, conditional use applications and other planning matters. The Board is of the view that a fully functional Planning District can provide a focused, coordinated and responsible approach to community and regional growth. There is value in sharing resources and

partnering with other municipalities on important services to help serve the Lac du Bonnet community and region as a whole. The argument that First Nations would prefer to deal with one knowledge hub as opposed to the whims of rotating elected Councils, is also compelling.

The Board notes as well that, before the Dissolution Application was initiated, the Planning District had been involved in a number of initiatives and projects to help improve efficiencies, address environmental issues, and to promote sustainable, economic growth for both the Town and RM. The Board feels that this important work should continue, if at all possible.

After considering all of the presentations, the Board finds that there is no persuasive justification to dissolve the Planning District.

The Board notes that there were legitimate concerns raised regarding decision-making control, conflicts of interest and bias at the Planning Board level. The Planning District should consider restructuring its board membership to mitigate against these risks going forward. This may be effected through equal municipal representation and/or the addition of community members at large to the Planning Board. There should also be disclosure and conflict of interest policies in place that apply to all Planning Board members.

The Planning Board, however it may be constituted, should be encouraged to work out constructive solutions regarding funding, staffing and operations in a fair and transparent manner. The transfer of planning matters in-house by the Town and RM was only intended to be a temporary arrangement, pending a decision by the Minister following consideration of the Dissolution Application and the recommendations of this Board. The Board agrees with the general sentiment that there is value in utilizing the skilled staff and services at the Regional Office for subdivision applications and other planning matters, as needed. The trust and communication that once existed between partner municipalities needs to be restored and the Planning District must have a dispute resolution process in place to effectively deal with disputes. This is a mandatory requirement under Section 23 of the Act which reads:

Dispute resolution

- 23** The member municipalities of a planning district must
- (a) agree on a process to resolve disputes about the operation of the district; and
 - (b) use that process to attempt to resolve any dispute involving the operation of the district.

The Town requests that if a decision is made not to dissolve the Planning District, then the RM should be allowed to withdraw from the Planning District. The Board also heard limited comments regarding the Town possibly expanding the Planning District boundaries and partnering with other municipalities. The Board brings these matters to the Minister's attention as these alternative approaches may involve a change in Planning District boundaries or amalgamation of existing planning districts. The Board notes that these alternatives would involve separate applications and processes under the Act that are beyond the scope of this Report.

THEREFORE, THE BOARD RECOMMENDS:

1. That the Dissolution Application be **DENIED**.

FOR THE MUNICIPAL BOARD

Date

Jeff Bereza, Chair

Brenda Loewen, Secretary