



# **MUNICIPAL INSPECTION REPORT**

## **VILLAGE OF ANDREW, AB**

**NOVEMBER 2023**

**SAGE ANALYTICS INC.**

**Municipal Inspection Report  
Village of Andrew, Alberta**

SAGE Analytics Inc.  
Edmonton, Alberta



**November 15, 2023**

**The Honourable Ric McIver  
Minister of Municipal Affairs**

18th floor, Commerce Place  
10155-102 Street, Edmonton, AB, T5J 4L4

**Re: Village of Andrew Municipal Inspection Report**

Dear Minister McIver:

An inspection has been conducted of the management, administration and operations of the Village of Andrew, Alberta as directed by Alberta Ministerial Order No. MSD:036/23, approved on April 27, 2023.

The municipal inspection findings are contained in the following report. A recommendation for Ministry guidance and directives is respectfully submitted for your consideration.

Thank you for the opportunity to assist with this process. I remain available to respond to any questions you may have regarding the inspection findings.

Sincerely,

*Shari-Anne Doolaege*

Shari-Anne Doolaege, MPA  
President, SAGE Analytics Inc.  
Municipal Inspector

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# Municipal Inspection Report

## Village of Andrew, Alberta

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# **Municipal Inspection Report Village of Andrew, Alberta**

## **1 EXECUTIVE SUMMARY**

This municipal inspection was requested by the Andrew Municipal Council. Village officials reached out to the Minister of Municipal Affairs because they were overwhelmed with a multitude of current leadership and community challenges.

Village officials needed a 'coach' to provide guidance and recommendations, as well as a 'referee' to objectively review and provide findings on various matters of concern. Village officials cooperated with the SAGE municipal inspection team through this extensive, extraordinary municipal inspection process.

This SAGE municipal inspection report is intended to be both educational and adjudicative. SAGE has provided 42 findings and 26 areas of recommendations. These should be insightful for village officials and the broader community and can serve as a helpful roadmap to strengthen the municipal viability.

This report identifies areas of strength, such as regional services and recent efforts to advance community safety. Areas of concern are also identified, specifically in the following areas: Financial reporting, assessment, budgeting, taxation, tax recovery, utility rates, grant reporting, bylaws, policies, council meeting preparation, recording of minutes, candidate eligibility, pecuniary interest, council code of conduct, byelection procedures, employee management, and security of facilities.

Village officials have some work ahead to improve operations and fully comply with governing legislation. The current instability on village council and administration could impact the capacity for village officials to make meaningful, timely improvements. SAGE trusts that village officials will consider the contents of this report and take steps towards positive change and implementation.

Continued ministerial oversight and guidance will be needed to ensure that village officials consider the SAGE findings and recommendations, and to help the Village of Andrew achieve strong and effective governance.

## **2 SCOPE OF MUNICIPAL INSPECTION**

### **2.1 Legislative Basis and Municipal Request**

**Municipal request:** Village of Andrew officials contacted the Minister of Municipal Affairs in early 2023 and met with the Minister on March 1, 2023 to express issues of concern impacting village leadership. Village Council requested ministerial assistance – specifically for an “audit,” intending that the Minister would order a municipal inspection to be conducted for the Village of Andrew. There was an indication of public pressure to have a municipal inspection conducted on the village. Council got ahead of the issue by requesting the inspection.

Council passed resolution #2023030005 on [March 8, 2023](#) as follows:

#### **9.2 Municipal inspection**

*Motion made by Mayor Merwin Haight to send notice to Alberta Municipal Affairs, that council is looking to have a Municipal audit initiated. To have the CAO send notification as a letter for the need of a Municipal Audit for council.*

Municipal Affairs completed a preliminary review in April 2023 which identified concerns and recommended that a municipal inspection be conducted in accordance with the Municipal Government Act (MGA) s. 571.

Municipal Affairs called for proposals through a competitive bid process and selected SAGE Analytics Inc. (SAGE) to conduct the Village of Andrew municipal inspection. SAGE is an Alberta-based municipal consulting company primarily focused on governance, dispute resolution, and engagement. SAGE has an experienced municipal inspection team with diverse subject matter expertise and knowledge of municipal matters across areas of governance, administration, operations, finance, planning, and protective services.

**Ministerial Order** No. MSD:036/23 was approved on April 27, 2023 where the Honourable Rebecca Schulz, Minister of Municipal Affairs appointed Shari-Anne Doolaege of SAGE Analytics Inc. as the “inspector to conduct an inspection of the management, administration and operations of the Village of Andrew” pursuant to

## **Municipal Inspection Report Village of Andrew, Alberta**

Section 571 of the MGA. This was Shari-Anne Doolaeye's 10<sup>th</sup> provincial appointment as a municipal inspector since 2015. She led the SAGE municipal inspection team through the process and is the primary author of the report.

This municipal inspection report for the Village of Andrew, Alberta is provided to the Minister and the Village of Andrew council. It contains the detailed inspection findings. Upon review, the Minister may order directives for a municipality pursuant to the MGA s. 574. The management, administration and operations of a municipality are defined in the MGA s. 571(1.1) as follows:

*(1.1) For the purposes of subsection (1), the management, administration or operation of a municipality includes:*

- a) the affairs of the municipality,*
- b) the conduct of a councillor or of an employee or agent of the municipality, and*
- c) the conduct of a person who has an agreement with the municipality relating to the duties or obligations of the municipality or the person under the agreement.*

The following definitions were used in reference to the above MGA sections:

**Irregular:** Not according to established principles, procedures or law; not normal; not following the usual rules about what should be done.

**Improper:** Deviating from fact, truth, or established usage; unsuitable; not appropriate; not conforming to accepted standards of conduct.

**Improvident:** Lacking foresight; taking no thought of future needs; spendthrift; not providing for or saving for the future; not wise or sensible regarding money.

## **2.2 Municipal Inspection Project Scope**

The April 27, 2023 Ministerial Order No. MSD:036/23 requires the “inspector to conduct an inspection of the management, administration and operations of the Village of Andrew” pursuant to Section 571 of the MGA.

The detailed municipal inspection project scope includes the following:

### **2.2.1 Legislative**

1. Review the general compliance status of village bylaws and policies that are required under the MGA.
2. Assess meeting conduct, role understanding, and overall council and administration function.

### **2.2.2 Finance**

3. Review of village finances **since January 1, 2021** including:
  - a. **Bank reconciliations** and supporting documentation;
  - b. Verification of **cash accounts**;
  - c. Evaluation of general **financial policies**, processes, and **financial controls** in place since January 1, 2021;
  - d. Evaluation of the policies, processes, and controls governing the allowance for **doubtful accounts**, including that for **outstanding taxes**; and
  - e. Approvals, applications, and controls of all **grant applications** in the 2021 and 2022 fiscal years.

### **2.2.3 Assessment and taxation**

4. Review of property assessment and taxation from **2017-2023**, specifically:
  - a. all tax agreements;
  - b. changes to the **assessment class** of any property(ies);
  - c. the village's procedures with respect to property assessment/taxation notification, collection, appeals, **recovery**; and
  - d. the village's **tax rate bylaws**.

### **2.2.4 Fire Services**

5. Review of the village's fire service delivery **since January 1, 2017**, including any applicable agreements, bylaws, and procurement documents.

### **2.2.5 Security**

6. Review of the village's procedures related to security of records (care and control), facilities, and staff.

### **2.2.6 Reporting**

7. Prepare a written report to the Minister of Municipal Affairs for review and consideration, including:
  - a. A description of the legislative basis for inspections and the specific authorization for the inspection;
  - b. A description of the municipality;
  - c. A description of the inspection findings, analysis, conclusions, including a statement of whether or not overall, the municipality

## **Municipal Inspection Report Village of Andrew, Alberta**

is managed in an improvident, improper or irregular manner and identify those improvident, improper, or irregular matters;

- d. Any recommendations to the Minister to address results of the inspection process.
8. Present the report to the municipal council and consider council feedback.
  9. Present the report to the public.

### **2.3 Project Timeframe**

- **May-June 2023:** The SAGE inspection team conducted primary research, interviews and data collection.
- **July-September 2023:** Draft report writing, continued to follow local issues, received further information and clarification from stakeholders.
- **September 2023:** Draft report submitted to Alberta Municipal Affairs.
- **October 2023:** Report submitted to Alberta Municipal Affairs and Andrew Village Council for review and comment. Feedback to be considered before finalizing the municipal inspection report.
- **October 25, 2023:** SAGE presented the Municipal Inspection Report to Council and invited comments on any factual clarifications.
- **November 8, 2023:** Council passed resolution 202306104 to acknowledge completion of their factual review of the report.
- **November 15, 2023** SAGE finalized the municipal inspection report.
- **November 22, 2023** Closed session scheduled during the Andrew Village Council meeting for Municipal Affairs representatives to address council.
- **Date TBD:** Final report presented to the council and the public.

# **Municipal Inspection Report Village of Andrew, Alberta**

## **2.4 Research and Interviews**

Project research began with an extensive review of key documents and stakeholder interviews conducted by the SAGE municipal inspection team. Municipal inspection interviews were conducted with council, staff, various stakeholders and a sample of residents. Officials were provided with follow-up interviews where further clarification was required, and to give individuals a chance to know and respond to matters and findings involving them.

Officials were provided with findings of the draft report showing allegations involving them and were given an opportunity to provide additional comments to the municipal inspector.

Interviewees were advised of their right to obtain legal counsel prior to speaking with the inspector, and the following wording was included on formal interview requests: "*Note: Interviewees have a right to obtain legal counsel before meeting with the municipal inspector.*" Several officials and residents reached out to the municipal inspector directly to provide comments during the process.

The municipal inspector met with village council in closed session on October 11, 2023 to inform them of various findings involving council as a whole. Council provided various comments and passed the following resolution when the meeting returned to open session:

***RES 202306058*** *Moved by Deputy Mayor Tammy Pickett that Village of Andrew Council provide the municipal inspection procedural fairness responses from council to Shari-Anne Doolaege of Sage Analytics Inc as discussed in closed session. CARRIED*

Overall, council, staff and other stakeholders were obliging and cooperative in accommodating interviews and providing information upon request. Some individuals preferred not to speak with the inspector. The research and input received was used to gather data and to develop an understanding of the community dynamic and local issues.

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## 3 MUNICIPAL DESCRIPTION

### 3.1 Municipal Profile

The [Village of Andrew](#) was incorporated in June 1930 and has a population<sup>1</sup> of 412 (2022). This agricultural community has various businesses and recreation services. Modest homes and beautiful, mature trees line the quiet streets



in this peaceful village. The 'World's Largest Mallard Duck' statue is a local tourist attraction, along with a smaller mallard replica outside the village office, which is co-located within the Andrew School building. Local history is commemorated in the local Centennial Park. Photo shown below:



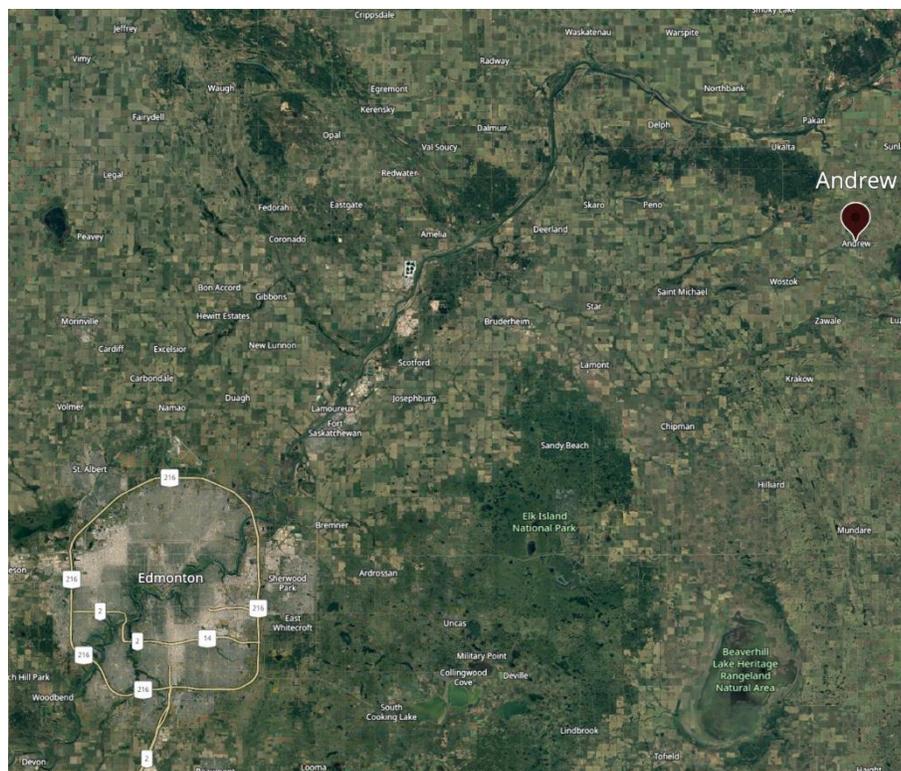
<sup>1</sup> Population data obtained from: <https://regionaldashboard.alberta.ca/region/andrew/#/>

# Municipal Inspection Report

## Village of Andrew, Alberta

### 3.2 Location

The Village of Andrew, Alberta is located within Lamont County ~100 km Northeast of the City of Edmonton, as shown in the Google Earth maps below.



# **MUNICIPAL INSPECTION FINDINGS**

## **4 GOVERNANCE**

### **4.1 Municipal Purpose**

Alberta municipalities are established under provincial authority and are required to follow provincial and federal legislation. The [\*Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26 \(MGA\)\*](#) is a primary piece of provincial legislation that provides order, authority, and direction to municipalities. The MGA gives broad authority to municipal councils to govern their respective jurisdictions and it specifies the roles, responsibilities and limitations of officials in carrying out governance activities. The MGA specifies municipal purposes as follows:

#### ***Municipal purposes***

*3 The purposes of a municipality are*

*(a) to provide good government,*

*(a.1) to foster the well-being of the environment,*

*(a.2) to foster the economic development of the municipality,*

*(b) to provide services, facilities or other things that, in the opinion of council, are necessary or desirable for all or a part of the municipality,*

*(c) to develop and maintain safe and viable communities, and*

*(d) to work collaboratively with neighbouring municipalities to plan, deliver and fund intermunicipal services.*

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## **4.2 Council Structure**

The Village of Andrew is governed by a five-member council elected at large. The following individuals served on Andrew Village Council in recent years:

### **October 2021 Election:**

- Tammy Ann Pickett
- Merwin Haight
- Barry Goertz
- Benny Dubitz (resigned July 29, 2023)
  - November 13, 2023 byelection date has been set.
- Evan Genung (resigned May 10, 2023, elected in August 2022 byelection)
  - Council set an August 21, 2023 byelection date to fill this vacancy. No candidate nominations were received.
  - November 13, 2023 byelection date has been set.
- Osama Hamed (resigned May 25, 2022)

### **October 2017 Election:**

- Kenneth Hamaliuk
- Herbert Fedun
- Sheila Lupul
- Osama Hamed
- Gary Leppek

### **October 2013 Election:**

- Brent Matiaszow
- Heather Tait
- Osama Hamed
- Barry Goertz (resigned in early 2014)
- Mona Mitchell-Frampton
- Eldon Feniak (elected by acclamation in April 2014 byelection)

A past village official stated that the village had five council members since the 1977 general election. According to the MGA s. 143(2) below, a village council consists of three members, unless a bylaw is passed to increase the number of councillors. If a related bylaw exists, it could not be located during the inspection.

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### ***Number of councillors***

*143(2) The council of a village or summer village consists of 3 councillors unless the council passes a bylaw specifying an odd number of 5 or more.*

The village mayor (chief elected official) and deputy mayor were appointed by council in accordance with the MGA:

*150(2) The **chief elected official of a village**, summer village or municipal district is to be appointed by council from among the councillors unless the council passes a bylaw providing that the official is to be elected by a vote of the electors of the municipality.*

*152(1) A council must appoint one or more councillors as deputy chief elected official so that (a) only one councillor will hold that office at any one time, and (b) the office will be filled at all times.*

This is an important item and officials should clarify the village's authority to serve as a five-member council.

**SAGE finds that** village council acted in an irregular manner by operating as a five-member council without passing a related bylaw to increase the number of village councillors from three, in accordance with the MGA s. 143(2).

**SAGE recommendation:** That village council pass a bylaw in accordance with the MGA s. 143(2) to authorize the five-member council for the Village of Andrew or locate this historical bylaw record.

## **Municipal Inspection Report Village of Andrew, Alberta**

### **4.3 CAO Appointments**

The instability on village council over the current term impacted their leadership. Council's leadership challenges were amplified by staff turnover. A 'revolving door' in CAO appointments began after the December 2021 retirement of a long tenured village Chief Administrative Officer (CAO), Pat Skoreyko. Ms. Skoryeko had a 24-year career dedicated to the community, where she served in various capacities since July 1997.

A series of CAO and interim CAO recruitment efforts impacted this council with eight various appointments to the village's top administrative position since December 2021. Business continuity for the organization suffered, along with a lack of consistent guidance and advice to council and subordinate staff.

The following individuals served as Village of Andrew CAO since 2021:

1. Sharman Donald: Interim CAO (August 2023 – December 2023)
2. Tim Melnyk: (January 2023 – July 2023)
3. Steve Upham: Interim CAO (October 2022 – December 2022)
4. Adam Kozakiewicz, CFP: CAO (August 2022 – September 2022)
5. Steve Upham: Interim CAO (May 2022 – July 2022)
6. Sheila Lupul: CAO (March 2022 – May 11, 2022)
7. Sheila Lupul: Interim CAO (January 2022 – March 2022)
8. Pat Skoreyko, LGA: CAO (1999 – December 2021 retirement)

Village operations also faced challenges with public works staff turnover and a 2023 resignation of a 'lead hand' employee after 10 years of service to the community.

## **Municipal Inspection Report Village of Andrew, Alberta**

### **4.4 Council Quorum**

The Village of Andrew council quorum requires three members to be present to conduct village business. The MGA s. 167(1)(a) states that quorum of a council is *"the majority of all the councillors that comprise the council under section 143."*

The June 28, 2023 regular council meeting contains an example of village council losing quorum during a council meeting. There were four members of council serving at that time, due to the May 10, 2023 resignation of Councillor Evan Genung. Councillor Goertz was absent for the meeting and the following three members were present: Mayor Haight, Deputy Mayor Pickett, and Councillor Dubitz.

At ~9:30 p.m. council was discussing items in a closed session. Mayor Haight left the meeting at that time until ~9:48 p.m. during council discussion on one of these items. He did not formally state his reason for leaving the meeting at the time, and his absence is not recorded in the meeting minutes.

Mayor Haight was asked to comment on this matter. He informed the inspector that he removed himself from the closed session and could not participate in any direct discussions with council concerning a certain assessment matter given his relationship with the property owner, and that council was aware of his relationship. He also stated that, *"At no point prior to leaving the meeting was it indicated that quorum was broken, nor after by the CAO."*

The two remaining council members at the council table did not constitute a quorum of council. Deputy Mayor Pickett and Councillor Dubitz continued with the meeting as if normal, seeming unaware that they lost quorum. The CAO was present and did not advise council of the need to maintain quorum to conduct village business. Mayor Haight and the public returned at 9:48 p.m. and the mayor made a motion that council come out of closed session.

**SAGE finds that** village council acted in an irregular manner by conducting a portion of the June 28, 2023 regular council meeting without a quorum present, as required by the MGA s. 167.

## **Municipal Inspection Report Village of Andrew, Alberta**

Records show that village council sought and received clarification on council quorum and voting requirements from Alberta Municipal Affairs in early August 2023. Information received highlighted the MGA requirements for a council to act by resolution or bylaw, with a quorum present:

### ***Methods in which council may act***

*180(1) A council may act only by resolution or bylaw.*

### ***Requirements for valid bylaw or resolution***

*181(1) A bylaw or resolution of council is not valid unless passed at a council meeting held in public at which there is a quorum present.*

Detailed information was provided from Municipal Affairs to help council understand their responsibilities when acting with three of five council positions, which was the situation for this council due to two resignations. A summary of this information reads as follows:

*"...In summary, for a five (5) member council, a quorum is three (3). At that meeting, except for a few exceptional circumstances, resolutions are approved by the majority of the council members present. A resolution would only need two (2) votes in favour out of the three (3) council members present to be successful."*

Council was observed to understand and follow the clarification they received from Municipal Affairs when passing resolutions with their remaining three members.

## **4.5 Council Orientation**

The MGA requires orientation training to be offered to each councillor:

***Orientation training***

*201.1(1) A municipality must, in accordance with the regulations, offer orientation training to each councillor, to be held within 90 days after the councillor takes the oath of office.*

It is expected that council members will participate in orientation training to learn about their responsibilities upon commencing their role as elected officials. This is also specified in the [council code of conduct bylaw 2018-01](#), as follows:

*5.22 To participate in orientation training and other training opportunities with regard to the roles and responsibilities of Council.*

Village council participated in a 2021 regional council orientation session along with several municipal neighbours following the 2021 general municipal election.

In August 2022, council contacted Alberta Municipal Affairs to request additional governance training with a Roles and Responsibilities (R&R) workshop provided to council, as offered by the Ministry. Records show that Ministry staff provided workshop information to village officials at the time.

In early March 2023 village officials followed up on this workshop request and suggested March 2023 training dates. This request was concurrent with the request for a municipal inspection. The R&R training by Ministry staff was paused as a municipal inspection was pending. Related Ministry correspondence to village officials reads as follows:

*I understand you have also recently inquired about scheduling a roles and responsibilities workshop. While a roles and responsibilities workshop can be a useful tool to assist municipalities, I feel it is important for the integrity of any inspection process that this not be delivered by the ministry while proceeding with the steps described in this letter.*

## **Municipal Inspection Report Village of Andrew, Alberta**

*Should village council still be interested in a roles and responsibilities workshop after the conclusion of these steps, I would be pleased to consider it at that time. Alternatively, the village could engage a municipal consultant to provide a similar service sooner.*

Municipal Affairs continued to provide support to village officials throughout the municipal inspection process. Village officials had the Ministry advisory services 'on speed dial' in a sense and the inspector frequently referred them to the Ministry to receive advice and guidance on an array of municipal matters. Local officials also had access to a Village of Andrew October 2019 Municipal Accountability Program (MAP) review report completed by Alberta Municipal Affairs, with various recommendations to strengthen legislative compliance.

### **4.6 Council Vacancies and Byelections**

Village council had three resignations to date since the October 2021 general municipal election. Officials struggled with instability and intra-council conflict.

1. Councillor Osama Hamed resigned on May 25, 2022. This vacancy was filled when Councillor Evan Genung was elected in an August 8, 2022 byelection.
2. Councillor Evan Genung resigned on May 10, 2023. No candidate nominations were received by the nomination day.
3. Councillor Benny Dubitz resigned on July 29, 2023. A November 13, 2023 byelection date was set by council at the September 27, 2023 regular council meeting, to fill the two vacant council positions.

The May 10, 2023 resignation of Councillor Evan Genung required a byelection to fill the vacancy within 120 days, according to the MGA s. 165:

**165** *Unless a council sets an earlier date, election day for a by-election under section 162 or 163 is **120 days** after the vacancy occurs.*

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Village council set an August 21, 2023 byelection date by resolution at their June 28, 2023 regular council meeting. The *Local Authorities Election Act* (LAEA) s. 25(1) states that "*Nomination day is 4 weeks before election day.*" Therefore, nomination day was July 24, 2023 for the August 21, 2023 byelection.

### **4.7 Byelection Procedures**

Legislation requires specific procedures for elections and byelections. This includes officer appointments and advertising. Legislative requirements were not properly followed by village officials involved in preparing for the August 21, 2023 byelection. Details are described in the following report sub-sections:

#### **4.7.1 Advertising**

The LAEA specifies the advertising format and duration for the ***Notice of nomination day***:

*26(1) The returning officer shall give notice of nomination day in the **prescribed form** by publishing a notice at least once a week in each of the **2 weeks before nomination day** in a newspaper or other publication circulating in the area, or by mailing or delivering a notice to every residence in the local jurisdiction at least one week before nomination day.*

*(2) On complying with subsection (1), the returning officer may publish, mail and deliver additional notices and give notice by any other method as many times as the returning officer considers appropriate.*

There was no evidence to show that the LAEA s.26 advertising requirements were followed for the July 24, 2023 notice of nomination day, related to the August 21, 2023 byelection. Officials stated that nomination day advertising was placed only on the [Village of Andrew Facebook page](#) prior to nomination day. A search of the village's Facebook page shows that an account or log in is required to view the village's posts. Legislative requirements for election advertising are

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in place for good reasons and ensure fairness and transparency in election processes. It is possible that potential council candidates were not aware of nomination day because advertising requirements were not followed.

**SAGE finds that** village officials acted in an irregular manner, contrary to the LAEA s.26, related to advertising the July 24, 2023 notice of nomination day. Specifically, the Village of Andrew CAO, acting in the capacity of returning officer, failed to ensure that these advertising requirements were fulfilled.

The former CAO, Tim Melynk was informed of this finding. He took responsibility for this oversight and stated, *"I had planned to send the advertisement in, but it got missed."*

### **4.7.2 Insufficient Nominations**

Council candidate nominations stating eligibility are required on a prescribed form, and must be signed by at least five electors, eligible to vote in the election or byelection. No candidate nominations were received by the returning officer on the (improperly advertised) July 24, 2023 nomination day.

Since insufficient nominations were received, the village acted in accordance with the LAEA, s. 31 where nomination day remained open from 10:00 a.m. to 12:00 noon for *"a period of 6 days, including nomination day but not including Saturday, Sunday and holidays,"* which concluded on July 31, 2023. No council candidate nominations were received during this period, and the village notified the Minister of Municipal Affairs according to the LAEA s. 31(4):

*(4) If sufficient nominations to fill all vacancies are not received, the secretary shall immediately notify the relevant Minister, who may recommend a change in the status of the local jurisdiction or any other action the relevant Minister considers necessary.*

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On July 29, 2023, Councillor Benny Dubitz resigned from Andrew Village Council due to personal reasons.

Village officials contacted Alberta Municipal Affairs for byelection advice and guidance. On August 29, 2023 *Ministerial Order MSD:061/23* was issued to extend the date for the village to hold this byelection “from 120 days to 204 days after the vacancy occurred.”

Overall, the process to fill council vacancies is in a state of flux due to irregular advertising notice, an apparent lack of candidate interest, staff turnover, and lack of solid administrative advice to council. The remaining council members appeared to be trying their level best to navigate their legislative requirements amid these challenging circumstances.

Council set a November 13, 2023 byelection date to fill both council position vacancies. The ability to maintain a five-member village council is uncertain.

- *SAGE Note:* The November 13, 2023 byelection unofficial results show that three candidates ran to fill the two council vacancies. The following individuals were elected, though were not yet sworn in as of the date of this report:
  - Chris Lupul
  - Johannus VanVyfeyken

### **4.7.3 Substitute Returning Officer**

The LAEA requires the appointment of a substitute returning officer as a backup to the returning officer.

#### ***Appointment of returning officer and substitute returning officer***

*13(1) An elected authority may, by resolution, appoint a returning officer for the purposes of conducting elections under this Act by June 30 of the year in which the election occurs or, for a by-election or vote on a question or bylaw, in the resolution or bylaw that fixes the day for the by-election or vote on a question or bylaw.*

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*(2) If the elected authority does not appoint a returning officer, the secretary is deemed to have been appointed as the returning officer.*

*(2.1) **An elected authority must, by resolution, appoint a substitute returning officer** by June 30 of the year in which the election occurs or, for a by-election or vote on a question or bylaw, in the resolution or bylaw that fixes the day for the by-election or vote on a question or bylaw.*

*(3) The returning officer or substitute returning officer for a local jurisdiction may not be a candidate for the elected authority for that local jurisdiction.*

*(4) If, through illness, absence or other incapacity, the returning officer is incapable of performing the duties of returning officer, the substitute returning officer has and may exercise all the duties, functions and powers of a returning officer for the purposes of conducting elections under this Act.*

The LAEA s.1 definition states:

*(x) "secretary" means a chief administrative officer or designated officer of a municipality if the council has assigned the functions of the secretary under this Act to the designated officer, or the secretary of a school board;*

When council set the August 21, 2023 byelection date the CAO served as the returning officer, by default. Village council did not appoint a substitute returning officer. The village CAO did not advise council of this legislative requirement. The related June 28, 2023 council resolution reads as follows:

**Res#202306017** *Motion made by Councillor Benny Dubitz to have the byelection date set for August 21, 2023. Carried.*

**SAGE finds that** village officials acted in an irregular manner, contrary to the LAEA s. 13(2.1) by not appointing a substitute returning officer for the August 21, 2023 byelection.

Council was informed of this finding and stated that they were learning the process in their role as councillors.

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At the July 26, 2023 regular meeting, village council dismissed their CAO, Tim Melynk who was also serving as returning officer, in accordance with the LAEA "secretary" definition shown above. At the same meeting, council passed a resolution directing the interim CAO, Sharman Donald to hire a returning officer and substitute returning officer as required by the LAEA.

In the prior year, for the August 8, 2022 byelection, the village contracted returning officer and 'deputy' returning officer services. Council passed a related resolution at the prior, [June 15, 2022](#) special meeting. A contract is on file in the village records.

Council could fully comply with legislation by passing resolutions to specifically name all individuals that they appoint as returning officer and substitute returning officer for elections and byelections. Legislation refers to a '**substitute returning officer**' rather than a 'deputy' returning officer. Officials can update their terminology to ensure consistency and full compliance with legislation.

Preparations for the November 13, 2023 byelection were underway at the date of this report writing. Village officials followed a stronger process and contracted related expertise. Council's related September 27, 2023 council resolution did not clearly appoint a substitute returning officer. The resolution is shown below:

**RES 202306054** *Moved by Mayor Merwin Haight that Village of Andrew Council call the by-election to fill both vacancies for Monday November 13, 2023, and nomination day closes on Monday October 16, 2023. Interim CAO S. Donald to contact returning officer M. Klita to get the forms filled out and the advertising into the local papers for October 4th and October 11th.*

*Carried*

**SAGE recommendation:** That officials consider the following sample council resolution wording to comply with the LAEA s. 13:

That council appoints \_\_\_\_\_ as returning officer and \_\_\_\_\_ as substitute returning officer for the  (date)  byelection, in accordance with the LAEA s. 13.

## **4.8 Council Candidate Eligibility**

The SAGE inspection team heard concerns that Mayor Merwin Haight was not eligible to be nominated as a candidate in the October 18, 2021 general election due to tax arrears owing to the Village of Andrew as of the September 20, 2021 nomination day.

Related legislation in the LAEA states:

### ***Ineligibility***

*22(1) A person is not eligible to be nominated as a candidate in any election under this Act if on nomination day*

*(c) the person is indebted to the municipality of which the person is an elector for taxes in default exceeding \$50, excluding from that amount*

*(i) any indebtedness for current taxes, and*

*(ii) any indebtedness for arrears of taxes for which the person has entered into a consolidation agreement with the municipality, unless the person is in default in the payment of any money due under the agreement;*

*(d) the person is indebted to the local jurisdiction for which the election is to be held for any debt exceeding \$500 and in default for more than 90 days;*

### ***Nominations***

*28(1) Subject to subsection (1.2), nominations shall be submitted at the local jurisdiction office at any time during the nomination period.*

*(2) The person nominated as a candidate is responsible for ensuring that the nomination filed under this section meets the requirements of section 27.*

*(4) A returning officer shall not accept the following for filing:*

*(a) a nomination that is not completed in the prescribed form;*

*(b) a nomination that is not signed by at least the minimum number of persons required to sign the nomination;*

*(c) a nomination that is not sworn or affirmed by the person nominated;*

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*(d) if a bylaw has been passed under section 29(1), a nomination that is not accompanied by the deposit required by the bylaw.*

The election candidate holds the responsibility to be aware of their eligibility. It is not the returning officer's role to police the eligibility of candidates that are nominated on nomination day.

The MGA states that ineligibility for nomination is a reason for disqualification from council:

### ***Reasons for disqualification***

*174(1) A councillor is disqualified from council if*

*(a) when the councillor was nominated, the councillor was not eligible for nomination as a candidate under the Local Authorities Election Act;*

### ***Resignation on disqualification***

*175(1) A councillor that is disqualified must resign immediately.*

*(2) If a councillor does not resign immediately,*

*(a) the council may apply to a judge of the Court of King's Bench for*

*(i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a councillor, or*

*(ii) an order declaring the person to be disqualified from council,*

*or*

*(b) an elector who*

*(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a councillor, and*

*(ii) pays into court the sum of \$500 as security for costs, may apply to a judge of the Court of King's Bench for an order declaring the person to be disqualified from council.*

The SAGE inspection team reviewed taxation and financial records for all local election candidates for the 2021 general election and the 2022 byelection.

Records show that Merwin Haight had a **\$1,355.02 total tax arrears balance**

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owing to the Village of Andrew as of the September 20, 2021 nomination day. This amount was split equally between two vacant lot properties owned by Merwin Haight in the Village of Andrew: Tax Rolls 20090.000 and 20091.000. Both tax accounts were paid in full on November 5, 2021 and are currently in good standing.

**SAGE finds that** Merwin Haight was not eligible to be nominated as a candidate in the October 18, 2021 election in accordance with the LAEA s. 22 because he had taxes in default exceeding \$50.00 owing to the Village of Andrew as of the September 20, 2021 nomination day.

Mayor Merwin Haight was informed of this finding and provided the following response and history:

1. "I went to the village office requesting a change of address for my property tax notices on two occasions in 2021 so these would be mailed to my Andrew address. I notified the village office that I had not received my property tax notifications.
2. I requested an address change for my dog license. Staff changed the address for my dog license and told me to go to a registries office to change the address for my property tax notice. Alberta registries does not send out property tax notices for municipalities. My property tax notice address was finally corrected at the village office in July 2023.
3. I contacted the village assessor and was told that any change of address and statements of balances would have to be done at the village office.
4. On my second visit to the village office, I requested a copy of my property tax notifications (bills) and was denied, due to computer issues. I asked if I could pay by cheque, and was told NO, by the CAO as I did not live in the Village of Andrew. I asked if I could pay by debit card or credit card, and again the CAO said NO, I could only make payment with cash, or online via the Alberta Treasury Branch (ATB). I set up an ATB bank account and began making payments, without knowing the balance of the tax accounts.
5. I moved to the Village of Andrew in June 2020.

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6. When I filed my nomination paperwork with the village office, I was not aware of my property tax balance. I had been making random payments on the property tax account.
7. At that point and time I (mistakenly) thought that CAO Pat Skoreyko was the returning officer, though Rose Weleschuk was the returning officer. At no point did either make any indication that I was not eligible to run in the 2021 election.
8. It was brought to my attention (around October 28-29, 2021) that I had property taxes owing more than \$50.00 on that date, by the former CAO, Pat Skoreyko and Assistant CAO, Shelia Lupul. I was asked if I could correct this immediately, or a byelection would have to be called. The account balance was presented to me and I proceeded to make electronic payment. I returned with a printout from the ATB showing that the payment was made in full. It cleared my account on November 5, 2021. Upon showing the electronic payment receipt to the CAO, she was satisfied that I had not been deceitful, misleading, or acting improperly.
9. The issue of my eligibility did not come up again until Shelia Lupul was dismissed as CAO in May 2022. At that point, [her husband] Chris Lupul attended a council meeting and questioned my eligibility to hold an elected official position. Mr. Lupul claimed to have been in the village office during my October 2021 meeting with Ms. Skoreyko and Ms. Lupul and he overheard in detail what was discussed and claimed that the walls in the village office area are 'paper thin.' Mr. Lupul requested an investigation into the matter.
10. A statement was requested from me by the Interim CAO Steve Upham, to review with my fellow councillors, to verify things. I provided a statement on 2022-05-27. The Interim CAO reported back that he found that I did not act deceitful, misleading, or improperly, given that I did not receive nor was made aware of the tax account balance prior to filing my nomination papers. It is my understanding that this investigation was conducted by the Interim CAO and there was no vote by council on this matter."

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- a. *SAGE Note: This former interim CAO was contacted by SAGE and provided the following response:*
  - i. "Councillor Merwin Haight paid his tax arrears balance owing immediately once it was brought to his attention. His tax notices went to the wrong address.
  - ii. There was some confusion about who served as the 2021 returning officer. If Rose Weleschuk was referenced unfairly, it was in error."
  
11. "It is my understanding that Rose Weleschuk had resigned as returning officer for the village of Andrew, prior to the May 2022 meeting.
12. All claims by Mr. Lupul were in an open public meeting, and the results of the investigation were brought forth in an open public meeting. All information with this matter is on the public record.
13. Neither Mr. Lupul, nor anyone else has brought forth a court challenge to my eligibility to sit as an elected official, to date."
  
- a. *SAGE Note: Former CAO, Pat Skoreyko was contacted by SAGE and provided the following response to the allegations of statements she made in 2021 during interactions with Merwin Haight regarding his taxes:*
  - i. "When someone came into the village office to change the address on their tax notice, we advised that it is mailed to the address that was registered at Land titles. We could make a note to send it elsewhere, but the Land Titles info was downloaded directly into the tax system.
  - ii. I am not aware of anyone being denied a copy of their tax notice. When a taxpayer requests a copy of their tax notice, we always provided a copy to them.
  - iii. The Village did not have debit or credit card payment options, so cash, cheque, or online banking were the only options available.

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- iv. The issue with Merwin Haight's outstanding taxes showed up when the yearend outstanding tax reminder letters were sent to taxpayers. Merwin was called to come the office to discuss. I was present but let another staff member do the talking. After the meeting, we made small talk. He told us about his first experience having blueberry perogies. He delivered the tax payment to a staff member's house a couple days later and the payment was processed at the village office."

### **4.8.1 Council Involvement on Eligibility Issue**

Minutes from the May 25, 2022 regular council meeting reference the following items during an open forum section of the meeting:

- "A question from the gallery arose regarding Deputy Mayor Haight's eligibility to run for council at the time of nomination."
- "Deputy Mayor Haight voluntarily removed himself from the room at 8:15 p.m."
- "To hold Deputy Mayor Haight's offer of resignation pending an investigation."

Mayor Merwin Haight informed the municipal inspector that he never did resign or submit any official resignation letter in writing to the CAO. He stated that at the time, "if the investigation found me at fault to be ineligible, I would resign."

The MGA requires a councillor resignation to be in writing:

#### ***Resignation***

*161(1) The resignation of a councillor must be in writing and given to the chief administrative officer.*

Minutes from a June 1, 2022 special council meeting contain Resolution #20220349, as follows:

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*"Moved by Mayor Goertz to uphold the eligibility of Deputy Mayor Haight as councillor due to there being no malicious intent and the matter being cleared up as soon as it was brought to the councillor's attention. CARRIED."*

A subsequent June 1, 2022 Resolution #20220354 to explore a municipal inspection option was passed at the same meeting, as follows:

*"Moved by Deputy Mayor Haight to [ask] the acting CAO to look into the costs of a full municipal inspection and the pros and cons of doing so. CARRIED."*

A Lamont Leader June 8, 2022 news article captured this council discussion:

### **Andrew Councillor keeps his seat amid call to resign:**

[https://issuu.com/cariboupublishing/docs/june\\_8\\_11/12](https://issuu.com/cariboupublishing/docs/june_8_11/12)

*"After an internal investigation reviewing the banking information pertinent to this issue, we accept the fact that there was no malicious intent or deliberate refusal to make full payment of the remaining balance. It was paid in full as soon as the admin forwarded him the remaining balance. The returning officer assured him there was no issue with his eligibility upon the full payment of the outstanding balance."*

*"A motion to refuse the forced resignation of Haight was unanimously approved."*

Minutes from the July 28, 2021 regular council meeting contain the following resolution #2021070048 appointing the returning officer:

*Councillor Lupul moved to appoint Roseann Weleschuk as returning officer for the municipal election on October 18. Carried*

The former Returning Officer, Rose Weleschuk became alarmed when she read the news article statement that *"the returning officer assured him there was no issue with his eligibility"* and she provided a letter of concern to council. She felt that the integrity of her character was being challenged and she was humiliated

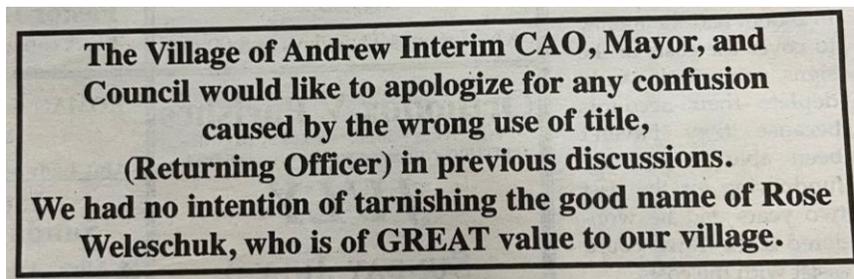
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by lies. She clarified that she *"did not assure Councillor Haight of anything."* She asked for a retraction in the local papers and apology from council.

Records show that the Nomination Paper and Candidate's Acceptance for Merwin Haight, and all the 2021 election candidates, was signed and accepted by Roseann Weleschuk in her capacity of returning officer.

Ms. Weleschuk was regarded as an honourable, long-tenured ~15-year village employee. Besides serving as returning officer, she has served as librarian, assessment review board clerk, village office front desk reception, and recreation operator/Duck Stop concession manager.

An unsigned written apology letter was provided to Ms. Weleschuk from the Village of Andrew Interim CAO, Mayor, and Council. Another apology was published in the local papers, such as the following June 29, 2022 excerpt:



**The Village of Andrew Interim CAO, Mayor, and Council would like to apologize for any confusion caused by the wrong use of title, (Returning Officer) in previous discussions. We had no intention of tarnishing the good name of Rose Weleschuk, who is of GREAT value to our village.**

A similar request for a retraction of comments published in the local papers was provided to council by former CAO, Pat Skoreyko on June 15, 2022 where officials *"said the returning officer was the CAO of the village at the time."* She stated that she did not, nor would ever provide advice on this candidate eligibility.

Legislation does not permit a council to venture into an adjudication role to rule on candidate eligibility. Evidence shows Merwin Haight was ineligible as a council candidate for the October 18, 2021 general municipal election. When this eligibility was challenged, former Deputy Mayor Merwin Haight appeared willing to step down from council. The remaining council intervened to refuse his pending resignation.

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**SAGE finds that** Andrew Village Council acted in an improper manner, outside their authority, and relied on false statements when attempting to uphold the 2021 candidate eligibility of their council colleague, Merwin Haight.

Council was informed of this finding and stated that they followed advice from administration on this matter. They referenced a learning curve in their role as councillors and stated that *"We thought we were doing what we needed to do."*

### **4.8.2 Employment Contract**

Ms. Weleschuk's employment with the village was impacted later that year. During 2022, she was employed as the village's recreation operator, working 15 hours per week to manage the Duck Stop concession and village recreation facilities located within the Andrew School building. Ms. Weleschuk held other part time employment at the public library, and at a local restaurant.

SAGE was informed that in December 2022 the village interim CAO asked Ms. Weleschuk to give up some hours and 'share' the part time recreation operator position to Carol Dubitz, who held a part-time village janitorial position. Ms. Weleschuk was upset and quit the recreation operator position. The interim CAO was reported to be surprised, saying that he didn't know why she quit. When Ms. Weleschuk told him that things were going to be tough for her, the interim CAO reminded her that she chose to quit the position. He suggested that if she needed more work hours, she should speak to her other employer at the local restaurant.

*This former interim CAO was contacted by SAGE and he provided the following response to the above allegations:*

1. He did not ask this employee to share some work hours. He wanted her to assist with additional janitorial duties. Combining hours somewhat was an effort to run the organization more efficiently. He was doing his job to manage the village and tighten up expenses.
2. He was surprised that Ms. Weleschuk resigned from her position as he wasn't asking much of her.

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3. Signed employment contracts were in place for staff, to his knowledge. He made a verbal request to change staff employment duties.

Ms. Carol Dubitz was then hired to replace Ms. Weleschuk as the village's recreation operator/Duck Stop manager and she also maintained her village janitorial position. Carol Dubitz is married to Benny Dubitz – a former village councillor (October 2021 - July 2023). Ms. Dubitz resigned from all village positions on July 27, 2023, the day after council's dismissal of CAO Tim Melnyk and appointment of interim CAO Sharman Donald. Former Councillor Benny Dubitz resigned shortly after, on July 29, 2023, due to personal reasons.

Ms. Carol Dubitz declined a fulsome interview with the municipal inspector in August 2023. However, she did state that her employment as recreation operator/Duck Stop manager started when she was asked to cover one night of work as *"the lady that worked there had resigned. There was an event at the multipurpose room, and someone needed to lock up at closing."* Then she was *"thrown into the position with no training."* She was initially hired to only clean the building.

The interim CAO responded to this allegation, and he stated that he spent time with Ms. Dubitz to show her how to do the job on her first shift. He stated that *"At no point did she indicate that she was ill equipped to do the job. She seemed happy to do the job and rise to the occasion."*

There are no records showing the proposed employment changes for Rose Weleschuk or Carol Dubitz. Employment contracts could not be located on file for these former employees.

There appears to be a link between Ms. Weleschuk's altered employment and her actions to voice her concerns regarding inaccurate statements made about her returning officer role. The timing follows months after her request for a retraction and apology from council over false statements made about the 2021 returning officer. The attempt by village officials to alter Ms. Weleschuk's employment appears punitive and contrary to standard employment practices. The attempt to reduce the employment of this long-term staff member caused

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harm to Ms. Weleschuk. This action does not reconcile with the prior words from the interim CAO, mayor and council where they provided "*sincerest apologies for the hurt we have caused*" regarding her returning officer role.

The objective review of this situation shows that an effort was made to reduce Ms. Weleschuk's village employment, and to increase Ms. Dubitz' village employment (a councillor's spouse). Jobs can be especially scarce in small communities. This example is concerning as it appears that efforts were made by some officials behind the scenes, with no paper trail, in order to enrich a council member's spouse.

Records show that the Duck Stop operations revenue was nominal, estimated at \$4,255 in 2022.

**SAGE finds that** village officials acted in an irregular manner in managing the recreation operator employment contract in 2022.

Former councillor, Benny Dubitz was informed of this finding and provided the following response:

- a. He was not involved in this employment matter. He had no knowledge of it until he came home one day, and his wife said she was offered the job with the village.
  - i. The hiring process was not done correctly, along with other things in the village. When there was a vacancy, the job opportunity should have been opened to other applicants.
  - ii. The individuals involved in this matter are extended family members and this has been hard on their relationship.

**SAGE recommendation:** That village administration establish clear and consistent employment management procedures that comply with employment standards and best practices. This includes maintaining copies of employment contracts, offers of employment, job descriptions, performance evaluations, and any management notes made on employee files.

## **4.9 Pecuniary Interest**

According to the MGA s. 170, council members have a pecuniary interest if a decision of council could monetarily affect a councillor, a councillor's employer, or councillor's family. A monetary impact (involving money) could be positive or negative. In brief, officials are required to disclose the nature of a pecuniary interest, abstain from voting and discussion, and leave the room until discussion and voting on the matter are concluded.

Councillors need to do their own research in advance before considering potential pecuniary interest matters. It is also important for council members to protect their interests and ensure that any abstentions from voting and disclosure of pecuniary interest are properly recorded in the council meeting minutes. Specific MGA sections include:

### ***Pecuniary interest***

*170(1) Subject to subsection (3), a councillor has a pecuniary interest in a matter if*

*(a) the matter could monetarily affect the councillor or an employer of the councillor, or*

*(b) the councillor knows or should know that the matter could monetarily affect the councillor's family. ...*

Alberta's local government system emphasizes transparency and the MGA s. 172 gives direction to council members to conduct themselves properly when they encounter pecuniary interest situations.

### ***Disclosure of pecuniary interest***

*172(1) When a councillor has a pecuniary interest in a matter before the council, a council committee or any other body to which the councillor is appointed as a representative of the council, the councillor must, if present,*

*(a) disclose the general nature of the pecuniary interest prior to any discussion of the matter,*

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- (b) abstain from voting on any question relating to the matter,*
- (c) subject to subsection (3), abstain from any discussion of the matter, and*
- (d) subject to subsections (2) and (3), leave the room in which the meeting is being held until discussion and voting on the matter are concluded.*

...

A bylaw requiring a statement of disclosure is optional. The MGA s. 171 states that a council *may* pass this type of bylaw.

The MGA states that failing to disclose a pecuniary interest is a reason for disqualification from council:

### ***Reasons for disqualification***

- 174(1) A councillor is disqualified from council if*
- (g) the councillor contravenes section 172;*

Alberta Municipal Affairs provides guidance for officials dealing with pecuniary interests, and has developed a publication titled: *Pecuniary interest for municipal councillors [2021]* (accessed from: <https://open.alberta.ca/publications/pecuniary-interest-for-municipal-councillors-2021#summary>). This document states that it is *"...only a guide to the legislation. It is recommended you consult your solicitor for advice on specific situations."*

The Village of Andrew Council Code of Conduct Bylaw 2018-01 s.5.6 commits council members *"To strictly follow the Pecuniary Interest requirements provisions of the MGA."* The bylaw section 6.4 describes expected conduct for officials when they have a pecuniary interest. This includes completing a "Disclosure of Pecuniary Interest" form attached to the bylaw as Schedule "A".

Some examples surfaced during the municipal inspection which indicate that some council members did not have a solid understanding of how to handle pecuniary interest matters, as described in the following sub-sections.

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**4.9.1 Shed Offer to Purchase**

At the July 12, 2023 regular council meeting included a 'Letter of Offer' agenda item. This involved a "Request to Buy" a 'yellow shed in the old sport-off grounds near the bleachers for \$500. This was an unsigned letter request from Shaun Dubitz, the son of then Councillor Benny Dubitz. Mayor Merwin Haight read this letter to council at the meeting. Councillor Dubitz remained at the council table during discussion and voting. He hesitated before voting yet did not abstain. A fellow council member suggested that this was not a pecuniary interest matter. Another family member present in the gallery spoke up to provide clarification on the location of the shed during council's deliberation, and thanked council after the vote carried.

The July 12, 2023 meeting minutes show resolution #202306004, as follows:

*8.1 Letter of offer from S. Dubitz to purchase old out building located on AG grounds - discussion on use & conditions.*

*Motion made by Councillor Goertz to accept the offer of \$500.00 with bill of sale to include description of items sold. Carried.*

In email communications the day after this meeting, Councillor Benny Dubitz informed the inspector that "the sale of the shed has been withdrawn."

Records do not show that village officials were formally made aware of the purchaser's intent to withdraw the shed sale. To date, the shed purchase did not return to council in a subsequent meeting for council to consider rescinding the resolution to accept the offer. Officials commented that they assumed village has ownership of these buildings. They are old, dilapidated sheds. One councillor was involved in sport-off community events and was not sure if this shed was needed for future use. Though apparently withdrawn, the offer to purchase the shed came from 'out of the blue' for two of the four council members present at the meeting.

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The market value of the shed is not known. Regarding assessment of property, according to the *MGA s. 1(1)(n)* "market value" means the amount that a property, as defined in section 284(1)(r), might be expected to realize if it is sold on the open market by a willing seller to a willing buyer.

The sale process is concerning despite the shed's apparent nominal asset value. There was no reference to sheds, or other village-owned assets or surplus goods being advertised or offered for sale to the broader public.

**SAGE finds that** village council acted in an irregular manner regarding the July 12, 2023 disposal of assets for a shed. This offer to purchase an unadvertised village asset was random, rushed through, lacked consultation with community groups that used the building, and the sale was disconnected from any capital asset management and disposal strategy.

Village council was informed of this finding and provided the following response:

*"Mayor Haight was in touch with the local Ag Society and discussed the purchase with the former CAO. These sheds on site were not assets. They were not on the village books as assets."*

Former Councillor Benny Dubitz appeared to have a pecuniary interest in this shed sale as it involved a monetary transaction for his son. He did not disclose a pecuniary interest or leave the room until discussion and voting on the matter concluded.

**SAGE finds that** former Councillor Benny Dubitz acted in an irregular manner at the July 12, 2023 council meeting regarding the sale of a shed to his son. He engaged in council discussion and voting on an apparent pecuniary interest matter, contravening the *MGA s. 172*.

Former councillor Benny Dubitz was informed of this finding, and he provided the following response:

*"The shed purchase was discussed between his other family members and Mayor Haight. He didn't think they would actually go through with it and was*

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*a bit confused in how the mayor handled it. Councillor Dubitz wasn't comfortable voting on this matter due to the potential pecuniary interest, and he did not get a correct answer when he expressed his concern at the council table. To his knowledge, the shed purchase offer was withdrawn, and the matter was closed."*

Mayor Merwin Haight was informed of this finding and that former councillor Benny Dubitz' referenced him during his procedural fairness response.

Mayor Haight provided the following response details to the municipal inspector:

### **"Dubitz Shed Purchase**

#### ***History of event and circumstances***

*One event tent, two structures, one shed, one mock-jail and eight large bleachers are the remnants of the assets from the defunct Sport-Off group, that operated the Sport-Off event in Andrew. This event ceased approximately 10 years ago. It must be noted that the remaining assets are now the property of the Village of Andrew, this was confirmed by the AG Society members, as some of them were volunteers with the Sport-Off group. It must also be noted that the assets from the Sport-Off event are in disrepair, dilated, and are becoming a liability to the Village of Andrew and the bleachers are a safety hazard.*

*In preparation for Canada events, the event tent that was stored in the shed was taken out and inspected to see if all the parts were present and the condition of the tarp covering.*

*Benny Dubitz, Carol Dubitz, Peggy White, and I on the evening of June 23, 2023 went to the Village of Andrew ball fields where the shed is located. And started to remove the tent from the building to assemble and inspect. While doing this, Carol Dubitz asked what was happening with the shed, I told her it was now the property of the village, and it was something the village would have to deal with, Carol asked if it was for sale, as she said it would make a good building for her son Shaun Dubitz. While this conversation was taking place one of Carol's brothers drove up and joined us and started helping with*

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*assembling the tent. Carol had questions about how it could be moved, Benny and I looked the building over and noted that it was not on skids and talked about the general condition of the building. After a short period of time another brother of Carol's drove up and talked with everyone in a general conversation, and the shed was part of the conversations that took place that evening. Questions of its condition, what repairs it would need, how much would it be worth, how much would it cost to move it, etc... were asked by Carol, she also asked if her and Benny could buy it, Benny stated that they could not buy because he was on council.*

*Carol asked if Shaun wanted to buy the building what would he have to do to purchase it.*

*I said Shaun would have to present an offer in writing to the village council and present it to the council for consideration.*

*As the village has no by-law or policy for the selling of such items, nor any written direction for the CAO to sell such items. Lacking such by-laws, policies, and procedures it was best to direct all such inquires to the Village council to make such decisions.*

*If Benny Dubitz is confused as to asking that any offers be directed to council, is most likely that he is unaware of the absence of such by-laws, policies, and procedures. I was only answering questions directed to me by Carol Dubitz.*

*Sometime later Carol Dubitz presented to council (at a council meeting in public) on behalf of Shaun Dubitz in writing a letter to offer to purchase the shed.*

*It must also be noted that all persons present that evening (June 23, 2023) are family members of Carol Dubitz and Benny Dubitz except for Peggy White and myself.*

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*It must also be noted that at no time was Shaun Dubitz present that evening or at the council meeting when Carol Dubitz presented the offer to purchase the shed on his behalf.*

*It must also be noted that when a prior inquiry was made by a county resident to purchase a couple of the bleachers, I brought this to CAO Tim Melnyk, and he directed me to tell them to make an offer in writing to council.*

*In the absence of such by-laws, policies, and procedures, I believed that it was the only proper way to address such matters.”*

- *SAGE Note: Council was made aware of this SAGE finding on October 25, 2023. On November 8, 2023 council passed resolution 202306107 "to rescind RES 202306004 re: sale of building to S. Dubitz."*

### **4.9.2 Mini golf contract**

Records show that Deputy Mayor Tammy Pickett's local business involvement includes operating the Andrew Mini Golf. A lease agreement was in place between the Village of Andrew and 'Pickett Turnaround' effective June 10, 2020. Lease terms show a two-year lease for a nominal \$1.00 charge, and electricity paid monthly by the lessee. Either party can terminate the agreement upon thirty (30) days written notice to the other party. Tammy Pickett was not serving on village council at the time.

The parties were willing to continue the lease agreement when it expired in 2022. Tammy Pickett was elected to council in October 2021. The August 24, 2022 council meeting agenda shows a detailed proposal from Unwind Bar & Grill c/o Tammy Pickett for lease renewal, renovations, and upgrades for the mini golf grounds. A five-year lease term was requested to keep this village attraction open.

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The August 24, 2022 council meeting minutes read as follows:

### ***Res 202203138 Andrew Mini Golf***

*Councillor Pickett removed herself from council meeting because of a conflict of interest in this matter and as not to persuade fellow council members.*

*MOVED by Mayor Goertz to approve the action of CAO to refine the lease agreement between the village and Pickett Turnaround to be reviewed again before signing. CARRIED*

*Councillor Pickett rejoined council.*

When reviewing this item in August 2023, Deputy Mayor Tammy Pickett stated that she understood council's resolution was to continue with the lease and add the requested conditions. There was some CAO staff turnover since then. She requested the new lease agreement on a few occasions and never did receive it.

A year later, the mini golf contract termination was on the August 9, 2023 regular council meeting agenda as "10)b. Mini golf contract termination, does Village take over all utilities?" Correspondence was not provided, and there was no formal contract termination request.

Council discussion was casual among the three remaining council members (Haight, Pickett, Goertz). Deputy Mayor Pickett stated that the contract was no longer profitable. Her council colleagues asked her to suggest a contract termination date and she requested September 1, 2023.

Deputy Mayor Pickett did not follow the same steps she took in August 2022 when she declared her interest in the matter and removed herself from the room. She had an apparent pecuniary interest in this matter due to the monetary impact for her personal business, which she did not declare. Rather, she remained at the council table and participated in the related discussion.

The inspector was present at this meeting and did not observe an official vote on this agenda item. The draft meeting minutes from August 9, 2023 show the following:

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*B) Pickett Turnaround Consulting Inc is ending their contract with the Village of Andrew for the Mini-Golf effective September 1st. The Village will take over the water utility bill but no power or gas.*

*RES 202306030 Motion made by Mayor Haight to accept the contract termination.* *CARRIED*

Elected officials continue to have rights as citizens and taxpayers. They have a right to be heard by council in the same manner as a person who is not a councillor. This would include registering as a delegation to speak to council. The MGA addresses this as follows:

*172(3) If the matter with respect to which the councillor has a pecuniary interest is a question on which, under this Act or another enactment, the councillor as a taxpayer, an elector or an owner has a right to be heard by the council,*

*(a) it is not necessary for the councillor to leave the room, and*

*(b) the councillor may exercise a right to be heard in the same manner as a person who is not a councillor.*

**SAGE finds that** former Deputy Mayor Tammy Pickett acted in an irregular manner at the August 9, 2023 council meeting by engaging in council discussion when she had an apparent pecuniary interest in the Andrew Mini Golf contract. This contravened the MGA s. 172.

Deputy Mayor Tammy Pickett was invited to comment on this finding, and her response is summarized below:

*She didn't think of the pecuniary interest at this time. Previously, she removed herself from the council table and spoke as a delegate when initiating the contract renewal.*

The business of council is impacted following council resignations. At the time of the above example, village council had only three of five members, and three members are required to maintain quorum on council. Council is required to

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follow legislation and would not have had a quorum present to hear the mini golf contract matter.

The MGA s. 173 references the '**Effect of pecuniary interest on agreements**' where "*No agreement with a municipality under which a councillor of the municipality has a pecuniary interest is binding on the municipality unless...*" The termination of the mini golf contract may not be binding due to an apparent pecuniary interest.

The actions of village officials appeared inadvertent due to a lack of sensitivity and understanding on the seriousness of declaring and handling pecuniary interest matters. Training is needed to help elected officials balance their rights as citizens with their legislative responsibilities when dealing with pecuniary interest matters.

### **4.10 Council Code of Conduct**

#### **4.10.1 Legislation and Bylaw**

Since 2018, legislation requires municipal councils to establish a code of conduct bylaw that applies to all councillors equally, as per the MGA:

##### ***Bylaws – codes of conduct***

*146.1(1) A council must, by bylaw, establish a code of conduct governing the conduct of councillors.*

*(2) A code of conduct under subsection (1) must apply to all councillors equally.*

*(3) A council may, by bylaw, establish a code of conduct governing the conduct of members of council committees and other bodies established by the council who are not councillors.*

*(4) A councillor must not be disqualified or removed from office for a breach of the code.*

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A Code of Conduct for Elected Officials Regulation is also in place with greater details for officials. It can be accessed at: [https://open.alberta.ca/publications/2017\\_200](https://open.alberta.ca/publications/2017_200)

Village council showed early leadership in establishing a council code of conduct **policy** #201403-12 in March 2014, as prepared by former Mayor, Heather Tait. The Village of Andrew council passed Council Code of Conduct Bylaw 2018-01 on February 28, 2018, which includes a complaint process:

### ***PART 8- COMPLAINT PROCESS FOR BREACHING CODE OF CONDUCT***

*8.1 Any elector of the Village of Andrew may make a complaint alleging a breach of the code of conduct. Complaints regarding a Councillor's conduct be submitted in writing to Council through the CAO, using the form attached as Schedule "C".*

*8.2 Where a contravention of any provision in this Code of Conduct is alleged, Council shall, upon request of any member of Council, hold a special meeting of Committee of the Whole within 30 days of the complaint, to determine if the Council member has breached this bylaw. All discussions surrounding both alleged and substantiated violations of this code shall be conducted during an In-Camera meeting of Council, with the intent that the discussion shall remain confidential under the appropriate sections of the Freedom of Information and Protection of Privacy (FOIP) Act.*

*8.3 The Complained of Councillor shall be given opportunity to address Council at the meeting referred to in section 8.2, and will be provided with sufficient time to address the alleged breach of confidentiality. The Complained of Councillor shall be permitted to introduce evidence, including witnesses to support their position, and may be represented by legal counsel. Should the Complained of Councillor have legal counsel, then the Village shall have the right to legal representation. Should Council determine that a member has potentially breached the Code of Conduct, Council shall rise and report that such a determination has been made, and shall, at a special open Council session called for that purpose, pass a Resolution that shall require the member to appear before an In-camera Committee of the Whole meeting to be sanctioned.*

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*8.4 The Sanction shall be ratified by Resolution at a Regular Meeting of Council.*

*8.5 All Sanctions under this By-Law shall be fair and in keeping with the severity of the infraction, giving due regard to the Councillor's previous conduct.*

*8.6 Nothing in this Section restricts or attempts to countermand a Councillor's legal right to challenge a decision by Council through established legal channels.*

Council members continue to have rights as electors. Here, this includes the right to file a complaint against a council colleague.

Allegations of improper council conduct were raised against Councillor Barry Goertz, while he was serving as Mayor in early 2022. An unsigned February 2, 2023 letter to "Barry Goertz, Mayor" from Mayor Merwin Haight, Deputy Mayor Tammy Pickett, and Councillor Benny Dubitz provides notice of alleged violations related to one CAO employment agreement. It references that "*The Village has received a number of complaints against you arising from certain actions and omissions in connection with the CAO employment agreement....*"

SAGE requested to see a copy of the complaints referenced in the February 2 letter, and none could be produced *from village records* as of the date of this report writing. It is expected that formal complaints would be submitted on the prescribed Schedule "C" form required by Bylaw 2018-01 s.8.1.

### **4.10.2 Complaint hearing**

The unsigned February 2, 2023 letter states that a February 15, 2023 Committee of the Whole meeting would be held "*to determine if you have breached the Code of Conduct*" and to give Councillor Goertz an opportunity to address the committee.

This committee meeting occurred around February 15, 2023 where council met in closed session. There is no public record of minutes for this committee meeting. Councillor Goertz was told (verbally) that he would receive a document summarizing the findings, and punishment [sanctions]. To date, he never

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received this summary of findings. Councillor Goertz stated that he received a folder from council "with a few items in there" sometime prior to the February 15, 2023 committee meeting. The contents of the respondent's folder were provided to SAGE upon request. This folder contained the following:

1. Two identical February 2, 2023 letters to "Barry Goertz, Mayor" Re: Notice of alleged violations of Code of Conduct Bylaw No. 2018-01.
  - Both letters reference alleged actions related to one CAO employment agreement and request his attendance at the February 15, 2023 committee of the whole meeting.
  - Both letters are signed by Mayor Merwin Haight, Deputy Mayor Tammy Pickett, and Councillor Benny Dubitz.
    - *SAGE Note:* On November 6, 2023 Councillor Merwin Haight clarified that both copies of the original complaints were accidentally given to Councillor Barry Goertz in February 2023. One original copy was intended to be retained for village records.
2. One February 2, 2023, "Schedule C" code of conduct complaint form with Merwin Haight as complainant.
  - The "particulars" refer to "Please see attached papers." The form states "page 1 of 5" though the additional four pages are not provided.
3. One February 3, 2023, "Schedule C" code of conduct complaint form with Merwin Haight as complainant.
  - The "particulars" refer to "Please see the attached paperwork." The form states "page 1 of 4" though the additional three pages are not provided.
4. One February 8, 2023, "Schedule C" code of conduct complaint form with Benny Dubitz as complainant.
  - The "particulars" refer to "See attached files" which are not provided.

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5. One January 30, 2023, "Schedule C" code of conduct complaint form with Tim Melnyk as complainant.
  - The "particulars" refer to "Contacting and directing employees and that the CAO is directed by council as a whole..." which are not provided. A page is attached referencing the code of conduct sections that are alleged to be 'broken.'
6. One February 3, 2023 letter to "Barry Goertz, Councillor" Re: Notice of alleged violations of Code of Conduct Bylaw No. 2018-01.
  - This is an unsigned letter from Mayor Merwin Haight. It references alleged actions and requests his attendance at the February 15, 2023 committee of the whole meeting.

### **4.10.3 Draft Committee Determinations**

A February 16, 2023 *draft* summary of determinations from the Committee of the Whole was provided to SAGE by Mayor Haight. In this draft record, the hearing process was chaired by Mayor Merwin Haight and references three complaints as #1, #2, and #3. None of the complaints have a description, title, or date received, and #1 and #2 have no complainant name. The "complained-of person" is Councillor Barry Goertz. The determinations section shows that after consideration,

*"...the Committee determined that Councillor Goertz's complained-of actions did contravene [various sections of] the Code of Conduct... Councillor Goertz admitted to the complained-of actions, took responsibility for them, and apologized to the Committee."*

Sanctions against Councillor Goertz included suspending him from some of the council committees and bodies to which Council has the right to appoint members, and to issue a letter of apology to the Village of Andrew Administration.

Council meeting minutes from February 8 and February 22, 2023 reference 'complaints' as item #6. Item #10.7 from the March 8, 2023 meeting minutes

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references 'Councillor complaint outcome.' Item 9.10 'Council appointment to committees' removed Councillor Goertz from all committees. Other council members were appointed to board and committee appointments he previously held. Council sanctioned Councillor Goertz, though it was not clearly stated in the public record within these meeting minutes, and the committee determinations have not been provided to him to date.

This lack of transparency is contrary to procedural fairness and Bylaw 2018-01 s.8.4, that requires, "*The Sanction shall be ratified by Resolution at a Regular Meeting of Council.*" Confidentiality during a complaint process is very important yet does not extend to secret sanctions.

The municipal inspector attended and observed the June 14, 2023 council meeting. Council passed four council resolutions in closed session regarding Councillor Barry Goertz. These resolutions were voted on by council 'by number only' when council returned to open session. The June 14, 2023 draft council meeting minutes showed three council resolutions 202306016-18 made in closed session. At the date of writing these report details, the June 14, 2023 minutes were not publicly available. The version of the June 14, 2023 council meeting minutes approved by council on September 27, 2023 are not an accurate reflection of council's actions at this meeting as observed by the municipal inspector.

The MGA requires transparent decision-making for council as well as a right for the public to be present:

### ***Public presence at meetings***

*197(1) Councils and council committees must conduct their meetings in public unless subsection (2) or (2.1) applies.*

*(2) Councils and council committees may close all or part of their meetings to the public if a matter to be discussed is within one of the exceptions to disclosure in Division 2 of Part 1 of the Freedom of Information and Protection of Privacy Act.*

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*(3) When a meeting is closed to the public, no resolution or bylaw may be passed at the meeting, except a resolution to revert to a meeting of a council or council committee held in public.*

### ***Right of public to be present***

*198 Everyone has a right to be present at council meetings and council committee meetings conducted in public unless the person chairing the meeting expels a person for improper conduct.*

**SAGE finds that** village council acted in an irregular manner at the June 14, 2023 regular council meeting by passing resolutions in closed session and by passing certain motions in an obscure manner, by resolution number only when returning to open session.

SAGE invited comments from officials regarding this process. Mayor Haight stated that they made numbered motions in an effort to comply with FOIP due to media presence at the meeting. Deputy Mayor Tammy Pickett stated that she was caught off guard with these motions and was not comfortable to make it public. Councillor Goertz stated that hiding what the motions were was improper.

**SAGE recommendation:** That the June 14, 2023 regular council meeting minutes be corrected to accurately reflect the actions of council at that meeting; And that council rescind any resolutions that may have been made improperly.

### **4.10.4 Pursuing Complaints**

Council members were not unified in their reasons for persisting with a code of conduct complaint and sanctions. Mayor Merwin Haight emphasized the need for accountability. He emphasized that the complaints were all done by council, not him individually. Mayor Haight stated that he could have acted individually on various other instances, though chose not to. One councillor felt there was a serious breach of trust. One councillor 'went along' with the complaint process, though felt the matter was a bit petty. One councillor said, "*the whole thing stunk*"

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and described the process as "*Merwin's complaints...where he wanted to hurt Barry as much as he can.*" Councillor Goertz felt that the complaints were spearheaded by Mayor Haight in an effort to discredit him, and that Mayor Haight continues to push the issue, wanting Councillor Goertz to pay for associated legal costs.

A former council member stated that if there is questionable conduct by Councillor Haight such as his council eligibility, he will 'sweep it under the rug.' And if there is questionable conduct regarding Councillor Goertz, Haight will 'run it up the flagpole.'

SAGE invited Mayor Haight to comment on this statement regarding him. Mayor Haight refuted this statement saying that "*the issue of his candidate eligibility was in open public meetings; an inquiry was conducted, and the results were made public in a council meeting, again open to the public; this information is available to the public at the village office and has been in the local newspaper(s). Nothing has been done to sweep it under the rug.*"

There was some early optimism in 2021 among this group of council colleagues who were strong, business-minded community members. Council suffered internal strife on their governance journey. There were hard feelings over the mayor appointment process. There were strained relationships, communication issues, and a lack of trust with allegations of sabotage of the mayor's duties. The resignation letter of former Councillor Evan Genung referenced conflict with Mayor Haight. The resignation letter of former Councillor Benny Dubitz referenced personal reasons. At the date of writing this report section, Andrew Village Council struggled to maintain a quorum with only three of five council members remaining (Haight, Goertz, and Pickett).

Records show that this code of conduct concern began around June 2022. At that time Councillor Goertz was hospitalized with a serious health issue. Council delayed beginning to address the matter until February 2023 "*out of empathy and respect for Councillor Goertz' health condition.*" From an objective viewpoint, it appears that the council waited to act on their code of conduct complaints until Councillor Goertz was well enough to 'stand trial.'

#### **4.10.5 Primary Allegation**

A key allegation against Councillor Goertz relates to the employment contract details when hiring a previous CAO. There was confusion among officials between the final signed contract and the draft terms discussed by council. Mayor Goertz led the process and some on council felt he misrepresented them. The empirical evidence reviewed by SAGE shows that a February 23, 2022 CAO employment agreement was signed by all parties: Mayor Barry Goertz, Deputy Mayor Merwin Haight, the employee, and it was witnessed by Councillor Benny Dubitz. A dually signed agreement is strong evidence. The remaining allegations lack detail for the councillor to provide a fair response, or are accompanied by an unsigned letter, and one February 8, 2023 complaint is dated after the February 2, 2023 letter referencing that *"The Village has received a number of complaints..."*

The principles of administrative law are used to investigate and adjudicate council code of conduct complaints based on a balance of probabilities. Certain council members, particularly Mayor Merwin Haight, were determined to pursue code of conduct complaints which appeared to be rooted in weak evidence. The process and intent were questionable. If errors in conduct were made, they appeared inadvertent. The alleged actions by Councillor Goertz were not egregious, and the sanctions as 'punishment' do not equal the 'crime,' or the severity of the infraction as contemplated in Bylaw 2018-01:

*8.5 All Sanctions under this By-Law shall be fair and in keeping with the severity of the infraction, giving due regard to the Councillor's previous conduct.*

A bylaw is a strong enforcement tool. Bringing down the 'hammer' to address inadvertent actions is not reasonable. This Village of Andrew council code of conduct complaint process was extremely divisive, was a poor use of resources and time, and it distracted officials from the important governance and leadership that the community needed.

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An objective review of village records and facts show a stealthy, biased complaint investigation process where the council code of conduct bylaw was weaponized against Councillor Barry Goertz by some of his council colleagues.

**SAGE finds that** Council members Haight, Dubitz, and Pickett acted in an irregular manner by failing to follow the established process when imposing sanctions, and failing to ensure a fair, unbiased process when handling council code of conduct complaints.

- *SAGE Note:* On November 6, 2023 Councillor Merwin Haight clarified that he was reminded by fellow councillors that as Mayor, it was his responsibility to pursue council code of conduct complaints. He stated that he was not pursuing the complaints individually and he felt singled out by his council colleagues after reading this section of the report.

A council code of conduct bylaw can be a helpful, educational tool for a council to work together, model expected/agreed conduct, and hold each other accountable in respectful, formal, and informal ways. It provides a means to investigate complaints fairly for all parties, including public member complainants. The receipt of a complaint requires a fair, timely review and investigation process and is not a presumption of guilt.

The Council Code of Conduct Bylaw 2018-01 meets legislative requirements, though it can be improved for practical use. Some basic recommendations to strengthen Bylaw 2018-01 are provided.

### **SAGE recommendations regarding code of conduct bylaw:**

1. To add an educational, informal resolution process as an option to address disputes and complaints.
2. To distinguish between informal and formal complaints.
3. To include a preliminary review process by council, to determine if a complaint will proceed to further investigation.

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4. To include an optional an initial step with an informal resolution opportunity, such as mediation or a facilitated discussion, when a council member or the CAO submits a council code of conduct complaint.
  5. To ensure that a complainant council member does not concurrently serve as a primary adjudicator. A fair, impartial process is impossible if a complainant or party in a dispute serves as a judge of the matter.
- *SAGE Note: On November 8, 2023 council passed resolution 202306106 "to stop and remove committee sanctions related to Barry Goertz as per the findings of the Municipal Inspection Report."*

### **4.11 Legislative – Bylaws**

A bylaw is defined by Alberta Municipal Affairs as "a law made by a local authority in accordance with the powers conferred by or delegated to it under a statute." A related publication from Alberta Municipal Affairs, titled: Basic Principles of Bylaws [2020] can be accessed from:

<https://open.alberta.ca/dataset/97422d21-c5a2-4d2c-8d3e-e9b808ef08c3/resource/1072e7df-e13b-4cf8-ad66-d19c6ede5757/download/ma-basic-principles-of-bylaws-2020.pdf>

A statue is defined by Merriam-Webster as "a law enacted by the legislative branch of a government." For Alberta local governments, the [Municipal Government Act, Revised Statutes of Alberta 2000, Chapter M-26 \(MGA\)](#) is the primary provincial statute that provides authority for councils to pass municipal laws, known as bylaws.

The [Interpretation Act, Revised Statutes of Alberta 2000, Chapter I-8](#) defines enactment as follows:

#### **General definitions**

28(1) In an enactment,

(m) "enactment" means an Act or a regulation or any portion of an Act or regulation;

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The MGA s. 7 gives a council general jurisdiction to pass bylaws for municipal purposes. The MGA s. 8 describes regulatory and other powers under bylaws. And the MGA s. 9 further interprets a council's power to pass bylaws and gives councils broad authority and the right "*to govern municipalities in whatever way the councils consider appropriate:*"

### ***Guides to interpreting power to pass bylaws***

*9 The power to pass bylaws under this Division is stated in general terms to*  
*(a) give broad authority to councils and to respect their right to govern municipalities in whatever way the councils consider appropriate, within the jurisdiction given to them under this or any other enactment, and*  
*(b) enhance the ability of councils to respond to present and future issues in their municipalities.*

A municipal council may act only by resolution or bylaw in a public meeting:

### ***Division 9***

#### ***Council Proceedings***

#### ***Requirements for Valid Action***

#### ***Methods in which council may act***

*180(1) A council may act only by resolution or bylaw.*

*(2) Where a council or municipality is required or authorized under this or any other enactment or bylaw to do something by bylaw, it may only be done by bylaw.*

*(3) Where a council is required or authorized under this or any other enactment or bylaw to do something by resolution or to do something without specifying that it be done by bylaw or resolution, it may be done by bylaw or resolution.*

Bylaws require three separate readings to pass, and only the title or identifying number has to be read at each reading:

### ***Passing a Bylaw***

#### ***Bylaw readings***

*187(1) Every proposed bylaw must have 3 distinct and separate readings.*

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*(2) Each councillor present at the meeting at which first reading is to take place must be given or have had the opportunity to review the full text of the proposed bylaw before the bylaw receives first reading.*

*(3) Each councillor present at the meeting at which third reading is to take place must, before the proposed bylaw receives third reading, be given or have had the opportunity to review the full text of the proposed bylaw and of any amendments that were passed after first reading.*

*(4) A proposed bylaw must not have more than 2 readings at a council meeting unless the councillors present unanimously agree to consider third reading.*

*(5) Only the title or identifying number has to be read at each reading of the bylaw.*

### ***Passing of bylaw***

*189 A bylaw is passed when it receives third reading, and it is signed in accordance with section 213.*

Bylaw amendments or repeal need to be done “by bylaw” as a ‘tool’ with equal authority, like cutting a diamond with a diamond.

### ***Amendment and repeal***

*191(1) The power to pass a bylaw under this or any other enactment includes a power to amend or repeal the bylaw.*

*(2) The amendment or repeal must be made **in the same way** as the original bylaw and is subject to the same consents or conditions or advertising requirements that apply to the passing of the original bylaw, unless this or any other enactment provides otherwise.*

## **4.11.1 Bylaws Required by Legislation**

The SAGE municipal inspection team reviewed Village of Andrew bylaws which are required by the MGA. All legislatively required bylaws were in place. The

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relevant MGA sections are described below, along with a Village of Andrew (VOA) reference:

### **Bylaws — codes of conduct** (VOA [Bylaw 2018-01](#))

*146.1(1) A council must, by bylaw, establish a code of conduct governing the conduct of councillors.*

### **Establishment of chief administrative officer** (VOA Interim CAO Bylaw #2023-08-09-0010; [99-04 CAO Bylaw](#))

*205(1) Every council must establish by bylaw a position of chief administrative officer.*

*(2) Every council must appoint one or more persons to carry out the powers, duties and functions of the position of chief administrative officer.*

### **Property tax bylaw** (VOA [Bylaw 2022-07](#))

*353(1) Each council must pass a property tax bylaw annually.*

### **Assessment review boards to be established** (VOA [Bylaw 2021-01](#))

*454 A council must by bylaw establish*

*(a) a local assessment review board to hear complaints referred to in section 460.1(1), and*

*(b) a composite assessment review board to hear complaints referred to in section 460.1(2).*

## **Division 3**

### **Planning Authorities**

#### **Subdivision authority and development authority** (VOA [Bylaw 2019-04](#))

*623 A council must, by bylaw, provide for*

*(a) a subdivision authority to exercise subdivision powers and duties on behalf of the municipality, and*

*(b) subject to section 641, a development authority to exercise development powers and perform duties on behalf of the municipality.*

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### ***Appeal board established*** (VOA [Bylaw 1996-03](#))

627(1) A council must by bylaw

- (a) establish a subdivision and development appeal board, or
- (b) authorize the municipality to enter into an agreement with one or more municipalities to establish an intermunicipal subdivision and development appeal board,

### ***Land use bylaw*** (VOA [Bylaw 2013-03](#))

**640(1)** Every municipality must pass a land use bylaw.

### ***Powers and duties of bylaw enforcement officers*** (VOA [Bylaw 2020-07](#))

556 Every council must by bylaw

- (a) specify the powers and duties of bylaw enforcement officers, and
- (b) establish disciplinary procedures for misuse of power, including penalties and an appeal process applicable to misuse of power by bylaw enforcement officers.

### ***Intermunicipal development plans*** (VOA [Bylaw 2020-04](#))

631(1) Subject to subsections (2) and (3), 2 or more councils of municipalities that have common boundaries and that are not members of a growth region as defined in section 708.01 must, by each passing a bylaw in accordance with this Part or in accordance with sections 12 and 692, adopt an intermunicipal development plan to include those areas of land lying within the boundaries of the municipalities as they consider necessary.

## **4.11.2 Bylaw Observations**

The Village of Andrew bylaws were indexed and stored securely in the village vault. Most bylaws were available on the [municipal website](#), except for some recent ones. A chronological bylaw numbering format was typically used. This was logical as it included the year and consecutive numerical order. Some recent variations exist, such as the August 9, 2023 Borrowing Bylaw 2023-009,

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followed by the Interim CAO Bylaw 2023-08-09-0010. The village council passes a limited number of bylaws each year. The year and respective bylaw number is a sufficient numerical reference, such as 2015-03.

Some confusion and human error occurred, such as the [Traffic Bylaw 2017-07](#) inadvertently repealing the Council Procedure Bylaw 2015-03. Terminology to rescind and repeal was used interchangeably in various documents. The MGA refers to "repeal" of a bylaw to "discontinue" it, rather than "rescind." Officials are advised to use wording that is most consistent with legislation. The terminology to "rescind" is used in reference to "retracting" *resolutions* of council.

Some bylaws stored as originals were not signed. In contrast, the current council had a practice of all members signing each bylaw and initialling all pages. This is not necessary. For the Village of Andrew, the mayor and CAO are required to sign village bylaws according to the MGA:

### ***Signing or authorization of municipal documents***

*213(3) Bylaws must be signed by*

*(a) the chief elected official, and*

*(b) a designated officer*

Bylaws are sometimes passed with all three readings at the same meeting. This is acceptable and complies with legislation, as long as there is unanimous agreement:

*187(4) A proposed bylaw must not have more than 2 readings at a council meeting unless the councillors present unanimously agree to consider third reading.*

Council meeting minutes show inconsistency in providing unanimous consent with a specific resolution to proceed to third reading when all three bylaw readings of a bylaw were given at the same meeting. Sometimes there was clear, unanimous consent to consider third reading, such as in Res#202305037 when council passed Tax Rate Bylaw 2023-005, and sometimes it was missed, or was unclear, which is contrary to the MGA s. 187(4). This was also flagged in the 2019 MAP review (p. 39). The following are a couple of examples:

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1. From the draft August 9, 2023 meeting minutes:

**Bylaws:**

*Deputy Mayor Pickett read the 1<sup>st</sup> reading of Borrowing bylaw*

*#2023-009. Mayor Haight finished the 1<sup>st</sup> reading.*

*1<sup>st</sup> reading complete at 8:00 pm*

*Motion by Mayor Haight to do all 3 readings at once.*

*CARRIED*

*Motion made by Mayor Haight to accept 2<sup>nd</sup> reading.*

*CARRIED*

*Motion made by Mayor Haight to accept 3<sup>rd</sup> reading.*

*CARRIED*

2. From the April 25, 2018 meeting minutes:

*Res 2018040043 Councillor Hamaliuk granted permission of 3rd and Final Reading of Bylaw No. 2018-02 to Establish Alternate Methods for Advertising Statutory Notices. Carried.*

**SAGE recommendation:** That the MGA s. 187(4) be followed consistently, and that the minutes clearly show if the resolution passed with unanimous consent. Suggested wording:

Moved by \_\_\_\_ that council consider third reading of Bylaw \_\_\_\_ at this meeting. Carried **unanimously**.

The current council had a recent practice of reading bylaws out loud, word for word for the first reading, such as the August 9, 2023 first reading of Borrowing Bylaw 2023-009. It is expected that officials will read the entirety of bylaws and consider the content and impact *prior to meetings*.

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The MGA requires only an identifying bylaw title or number to be read at meetings:

### ***Bylaw readings***

*187(5) Only the title or identifying number has to be read at each reading of the bylaw.*

The three distinct, separate readings of bylaws at meetings allow the bylaw to be formally considered three times “as read” without fully reciting it word for word. Some bylaws are lengthy and sitting through three distinct recitations would be a legislatively painful use of time. Unanimous consent to proceed to a third round of reading would be rare. The MGA contemplates the need for meeting efficiency and relies on the diligence of officials to exercise meeting preparation and advance reading of draft bylaws – as well as all other agenda items to be considered at the meeting.

The SAGE recommendations are intended to provide some general coaching and instruction to improve the local process of passing and managing bylaws.

### **SAGE recommendations regarding bylaws:**

- 1.** That all current bylaws for the Village of Andrew be made available on the village website for easy public access.
- 2.** That the bylaws be listed in reverse-chronological order showing the most recent at the top of the list.
- 3.** That repealed or expired bylaws be organized online separately from the current bylaws to reduce confusion of what is “in force today.”
- 4.** That bylaws be signed by the appropriate officials upon passing.
- 5.** That online documents show that the [original copy is signed] and that the village discontinue the process of inadvertently broadcasting personal signatures online, to protect personal privacy.

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- 6.** That the binder index of the original, signed hardcopy bylaws be updated to remain current when any bylaw changes are made.
- 7.** That any repealed or amended bylaws be clearly labeled.
- 8.** That bylaws reference wording that is consistent with the MGA when “repealing” of a bylaw.
- 9.** That a CAO bylaw be in place to establish the position of chief administrative officer, as required by the MGA 205(1), and that appointments to this established position be made by resolution. This bylaw does not need to name a new CAO individually.
- 10.** That a bylaw review cycle be established to ensure that officials put their minds to local bylaws periodically. That a “review date” section be added to bylaws and diarized in the legislative staff calendar.

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**4.11.3 Procedural Bylaw**

The MGA contemplates that procedures will be established by bylaw for councils and committees to follow:

***Bylaws – council and council committees***

*145(1) A council may, by bylaw, establish the procedures to be followed by the council.*

*(2) A council may, by bylaw, establish council committees and other bodies.*

*(3) Where a council establishes a council committee or other body, the council may, by bylaw, establish the functions of the committee or body and the procedures to be followed by it.*

A meeting procedure bylaw is not required by legislation, though it is a common, best practice to establish an orderly, consistent meeting process. It is expected that a council will review their meeting procedure bylaw periodically to ensure that they are comfortable with it, and that it is consistent with legislative changes. For example, the MGA s. 199(1) “Meetings by electronic means” was updated as recently as 2022.

Andrew Village Council gave their meeting procedure bylaw a lot of attention and it remains in need of revisions. The timeline shows the following touchpoints:

**March 25, 2015:** Council Meeting [Procedure Bylaw 2015-03](#) was passed.

**December 13, 2017:** Bylaw 2017-06 was passed, amending Council Procedure Bylaw 2015-03, to add an open public forum component to council meetings. This bylaw wording shows intent to amend only and does not repeal the prior Bylaw 2015-03.

**December 13, 2017:** Traffic Bylaw 2017-07 was passed which includes what appears to be an inadvertent repeal of the Council Procedure Bylaw 2015-03:

***34. TRANSITIONAL PROVISIONS***

*a) Notwithstanding the repeal of Bylaw No. 2015-03 and Bylaw No 94-14 the amendments thereto, the provisions of Bylaw No. 2015-03*

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*and Bylaw No 94-14, and the amendments thereto, shall remain in full force and effect for the purposes of any traffic tags, offence tickets, or prosecutions pending or entered for contravention of Bylaw No. 2015-03 and 94-14 and amendments thereto, prior to third reading of this Bylaw.*

### **35. EFFECTIVE DATE**

*a) That Bylaw 2015-03, Bylaw No 94-14, and any amendments thereafter, are hereby repealed.*

**October 2019:** A 2019 MAP review was conducted by Alberta Municipal Affairs, noting legislative compliance issues in the originating 2015-03 bylaw, specifically:

1. To comply with the MGA s. 191 to amend bylaws by an amending bylaw, rather than resolution.
2. To comply with the MGA 153(c), and not attempting to remove a councillor from their seat if persisting in a breach and ruled out of order by the Chair.

**February 26, 2020:** 2020-02, Amending Council Procedure Bylaw 2015-03 was passed to address the legislative compliance items noted in the MAP review.

**April 26, 2023:** First reading of Council Meeting Procedure Bylaw 2023-001.

**June 14, 2023:** Second, third reading and passing of Council Meeting Procedure Bylaw 2023-001. This rescinds all previous meeting procedure bylaws and references:

### ***RESCINDS***

*90. Bylaw 2015-03, Bylaw 2017-06, Bylaw 2017-07 section 34. And section 35., By-law 2020-02., and any other section or sub-section contained within any other bylaw(s) pertaining to the meeting and procedures or anything thereof is hereby rescinded.*

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Council took a step backwards in passing this bylaw as it is not compliant with the MGA, for example:

1. Para 21 does not comply with the MGA s. 153 as it attempts to have authority to remove a council member from a meeting. *"The presiding officer may expel from the meeting any **member**, delegate, or person from the public who disturbs the proceedings of the meeting."*
2. Para 87 does not comply with the MGA s. 191 as it attempts to create authority to amend the bylaw by resolution.

**August 9, 2023:** Council identified concerns with the procedural bylaw and passed resolution 202306021:

*B) Council Procedure Bylaw #2023-001. Conflicting information was found in the bylaw after it was passed. Mayor Haight reached out to our lawyer, ... to go through the bylaw thoroughly and make the proper amendments so it goes hand in hand with the MGA.*

*Motion made by Mayor Haight to have the Council Procedure Bylaw reviewed by our consultant and then present it to council. CARRIED*

Village Council provided the following comments to the municipal inspector regarding the procedural bylaw update process:

1. A resident informed Council that they were operating without a meeting procedure bylaw as the 2017-06 Traffic Bylaw contained sections that repealed the 2015-03 Meeting Procedure Bylaw.
2. There is something in the bylaw that the mayor is not happy with. As a council, we want to recognize Treaty 6 Territory (land acknowledgement) and edit or control the public forum participation, not allowing conversations with the public within or during our meetings.
  - a. *SAGE Note:* On November 6, 2023 Councillor Merwin Haight clarified that only himself and one other council member had taken indigenous

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training, and that no other council member brought forward any statements for suggested edits for the land recognition.

3. Bylaw 2023-001 missed the mark. A key issue of concern is the control given to the CAO for setting the agenda, and not permitting changes. Legal counsel advised that Bylaw 2023-001 was not consistent with typical meeting procedure bylaws and provided a quote to review and rewrite it.
4. A recently updated meeting procedure bylaw from another community was suggested by Mayor Haight as a good starting point to review.

The MGA Division 7 “Revision and Consolidation of Bylaws” will be helpful to officials as they address the bylaw deficiencies. A publication from Alberta Municipal Affairs titled: *Procedure bylaw and agenda guide [2022]* can be accessed from: <https://open.alberta.ca/publications/procedure-bylaw-and-agenda-guide>

Records show that officials ‘fumbled the ball’ in addressing their procedural bylaw in recent years. Council had a reasonable base for a procedural bylaw in 2020, and guidance from the MAP review to meet legislative requirements. Village officials spent time and resources in 2023, only to slide backwards when passing Bylaw 2023-001 which is not in compliance with legislation. Seeking a professional review and advice are recommended, rather than borrowing bylaw content from another municipality. The idiom of being penny-wise and pound-foolish could apply here.

**SAGE finds that** village officials acted in an irregular manner by passing Council Procedure Bylaw 2023-001 which is not in compliance with legislation.

Council was informed of this finding and stated that they were aware of the issues with the procedure bylaw and were working on an update.

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**4.11.4 Utility rate bylaw**

Municipalities have authority to establish fees and charges for services and public utilities by bylaw, according to the MGA:

***General jurisdiction to pass bylaws***

*7 Subject to section 7.1, a council may pass bylaws for municipal purposes respecting the following matters:*

*(f) services provided by or on behalf of the municipality;*

*(g) public utilities;*

Village council updated their utility rates in 2023 when they passed [Utility Rates Bylaw 2023-03](#) on July 12, 2023. This bylaw states that it "rescinds *Bylaw portion 2000-01 Schedule B rates.*" Based on this information, it appears that the village utility rates were not updated for a number of years.

The previous Utility Rates [Bylaw 2000-01](#) deals with Waterworks, Sewers, Plumbing, Collection and Disposal of Waste. The attached SCHEDULE "B" references "Res 20070200." This appears that the utility rates schedule may have been updated in 2007, though an amending bylaw was not available.

The [May 24, 2023](#) regular council meeting minutes show numerous resolutions to change each residential and commercial utility rates individually. These new utility rates were applied to the June 2023 billing cycle, based on the council resolutions.

**SAGE finds that** village officials acted in an irregular manner on May 24, 2023 by attempting to amend utility rates by council resolution; And acted in an irregular manner by charging new rates on the June and July 2023 utility bills before these rates were established by bylaw.

Council was informed of this finding and stated, "*We are learning as we go.*" They stated that they had followed advice from administration where they leaned on the experience of their CAO. They thought that the utility rate increase process was done properly.

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**SAGE recommends** that utility credits be applied to all affected customer accounts to correct the utility rate increases that were applied in June 2023 prior to passing Utility Rates Bylaw 2023-03 on July 12, 2023.

### **4.11.5 Tax rate bylaw**

1. Property tax bylaws lacked clarity for 2017 and 2018 where the total village expenses were shown, without a corresponding amount of total village revenues.
2. The Property Tax Bylaw for 2016 also lacked clarity. The preamble shows total expenses and revenues along with a reference that "*...\$456,579 is to be raised by general municipal taxation.*" The 2016 property tax bylaw then references a General Municipal levy totalling \$319,878.78. It appears that the \$456,579 amount referenced in the preamble included all requisition levies, in addition to the general municipal tax revenue needed.
3. The 2017 and 2018 property tax bylaws contain a clause that rescinds the previous year's property tax bylaw. For example, Bylaw 401-17 states that "*Bylaw 385-16 is hereby rescinded.*" This clause should not be included in preparing future property tax bylaws. Tax rates are levied and applied each year through the respective annual property tax bylaw. Suddenly repealing the previous year's bylaw may have implications to the prior year tax notices that were sent under the authority of prior year property tax bylaws.

The annual property tax bylaw wording could be improved. The municipality referred to this bylaw as a "taxation rate bylaw" which is close, but not exactly consistent with the wording in the MGA s. 353(1) that requires each council to pass a "property tax bylaw" annually.

## **4.12 Legislative – Policies**

Policies impose a duty or standard in accordance with the MGA s. 5, and are council's responsibility:

### ***Council's principal role in municipal organization***

*201(1) A council is responsible for*

*(a) developing and evaluating the policies and programs of the municipality;*

The MGA requires that council establish a public participation policy:

### ***Public participation policy***

*216.1(1) Every council of a municipality must establish a public participation policy for the municipality.*

This policy is referenced in the [April 25, 2018](#) regular council meeting minutes, though it could not be located on file.

*Res 2018040039 Councillor Hamaliuk moved to accept the Public Participation Policy. Carried.*

A Village of Andrew policy binder was provided to the SAGE municipal inspection team, with policies dated 2013-2021. A draft employee handbook was also reviewed while onsite, though this was not approved by council. Policies were approved by council resolution, and some policies clearly referenced the associated council resolution providing approval.

A Respectful Workplace Policy 2023-01 was presented to council in 'rough draft' on March 8, 2023, and was subsequently passed by council on June 28, 2023 (Res#202306026). The inspector was present at this meeting and observed council present and carry a *third and final reading* of a 'harassment policy.' It appeared that village officials mistakenly thought that a policy required three readings, similar to a bylaw, though they do not. Policies may be passed with a single council resolution. This document appeared to be copied from another municipality.

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Village policies are listed below. Some are outdated, some need to be located, and some should be rescinded – such as the 2014 policies shown in the list below. At the October 11, 2023 regular council meeting council members expressed concern that policy 2018-11-01 Community Grants and Donations was unclear and this caused some confusion and frustration among local community groups.

### **4.12.1 Current Policies:**

1	2023-01	Respectful Workplace Policy
2	2021-01	Signing Authority
3	2018-11-05	Plaques, Certificates, Commemorations
4	2018-11-04	New Business Recognition
5	2018-11-03	Flowers & Donations
6	2018-11-02	Employee Long Service Awards
7	2018-11-01	Community Grants and Donations
8	2018-04-xx	Public Participation Policy
9	2017-04	Tree Conservation and Management
10	2017-03	Sewer Backups
11	2017-02	Substance Abuse Policy
12	2017-01	Sewer Service Line Replacement
13	2014-03-12	Council Code of Conduct
14	2014-01-22	Council Meeting Dress Code
15	2013-01	Tax Concession Policy
16	2008?	Tangible Capital Asset Policy – could not be located

**SAGE finds that** village officials acted in an irregular manner by failing to develop and evaluate policies for the community, particularly financial and facility access policies.

**SAGE recommendation regarding policies:** That all Village of Andrew policies be reevaluated by council and be updated or repealed to ensure consistency with legislation.

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**SAGE recommendation:** That the following additional policies be considered for the Village of Andrew. If these exist in some form, they should be brought up to date and followed.

1. Personnel policy
2. Facility security access and key distribution policy
3. Privacy policy
4. Financial policies:
  - a. Bank reconciliation policy
  - b. Cash handling policy
  - c. Procurement policy
  - d. Investment management policy
  - e. Reserve contribution policy

### **4.13 Council Meeting Observations**

The municipal inspector and/or members of the SAGE municipal inspection team observed the following Village of Andrew council meetings:

1. October 25, 2023 regular council meeting (in person)
2. October 25, 2023 organizational meeting (in person)
3. October 11, 2023 regular council meeting (in person)
4. September 27, 2023 regular council meeting (by phone)
5. September 11, 2023 special council meeting (by video)
6. August 31, 2023 special council meeting (by video)
7. August 9, 2023 regular council meeting (in person)
8. August 2, 2023 special council meeting (by phone)
9. July 26, 2023 regular council meeting (in person)
10. July 12, 2023 regular council meeting (in person)
11. June 28, 2023 regular council meeting (in person)
12. June 14, 2023 regular council meeting (in person)
13. May 24, 2023 regular council meeting (in person)
14. May 17, 2023 special council meeting for budget (in person)
15. May 10, 2023 regular council meeting (in person)

## **Municipal Inspection Report Village of Andrew, Alberta**

Meeting observations noted by the inspector include:

1. **Meeting attendance:** Council meetings were typically attended by interested community members and the local press. The public in the gallery were counted, referred to as “patrons” in the meeting minutes, and asked to sign in before coming into council chambers. Transparent decision-making is a fundamental tenet of local government. The public has a right to be present during council meetings in accordance with the MGA s. 198.

**SAGE recommendation:** That officials discontinue tracking the public during regular meeting attendance. Only public delegations registered to speak to council and individuals speaking during a public hearing need to be documented in the meeting minutes. If personal information is collected through a meeting sign in sheet, a process would need to be developed to ensure the protection of personal privacy.

2. **Meeting agendas:** Council meeting agenda packages lacked detail and appeared to be put together in a rush. Agenda items were often discussed verbally, and council members were surprised and caught off-guard at times. Staff recommendations were not typically provided for agenda items within a request for decision format, though records show this formal process was followed by past CAOs.

Agendas were not always accessible to the public before council meetings. Public members were often heard asking for a copy of the agenda when they arrived at the meeting. Staff had a process of taping a hard copy of the agenda to the exterior glass on the building entrance doors. Industrious members of the public were reported to take a picture of the ‘agenda on the door’ and share it among their networks.

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**SAGE recommendation:** That officials develop and adhere to a more comprehensive agenda preparation process, and that staff recommendations are provided in a request for decision (RFD) format with background information.

**SAGE recommendation:** That council meeting agendas be provided to council and be made available to the public in advance of meetings in an easily accessible format, such as through the village website; And that council will address this item in an updated meeting procedures bylaw.

- 3. Public participation:** Council members heard some delegations, and periodically engaged with public members in the gallery during meetings. Public members present in the gallery sometimes interjected to ask questions of council. This diverted council's attention away from the approved agenda and detracted from the important formality of council meetings.

**SAGE recommendation:** That Council restrict random interjections from the gallery during meetings. Any person wishing to address council during a meeting can be invited to register as a delegate and can provide background information on their topic. Council should describe options for public participation in an updated meeting procedures bylaw.

- 4. Public record:** The May 17, 2023 special council meeting for budget discussion contains no meeting minutes for the public record.

**SAGE recommendation:** That all council and committee meetings should be advertised and documented with meeting minutes for the public record, even if no actionable resolutions are made.

- 5. Decorum:** Officials generally addressed each other respectfully and all council members participated in deliberations. Emotions flared occasionally. The CAO abruptly left near the start of the July 12, 2023 meeting, in what was described as another "storm out" of a meeting.

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6. **Closed sessions:** The MGA s. 197 allows a council to close all or part of a meeting to the public in accordance with the exceptions to disclosure found in Division 2 of Part 1 of the *Freedom of Information and Protection of Privacy Act* (FOIP). The FOIP exceptions to disclosure were not referenced prior to closing portions of meetings to the public, and specific FOIP provisions were not referenced in meeting minutes. Greater clarity and FOIP considerations are needed before closing a portion of a meeting.

**SAGE recommendation:** That all closed sessions during meetings reference the appropriate FOIP exceptions to disclosure.

7. **Signing minutes and bylaws:** Every council member present initialled every document page and signed every bylaw and meeting minutes. This is inconsistent with standard practice and the MGA requiring signing by the presiding officer and a designated officer:

### ***Signing or authorization of municipal documents***

*213(1) Minutes of council meetings, and minutes of council committee meetings dealing with a power, duty or function delegated by council to the council committee, must be signed by*

- (a) the person presiding at the meeting, and*
- (b) a designated officer.*

**SAGE finds that** village officials acted in an irregular manner by failing to provide a record of the May 17, 2023 special council meeting, and for failing to reference the FOIP exceptions to disclosure prior to closing portions of meetings to the public.

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*Village of Andrew Council Chambers*

### **4.14 Meeting Minutes**

The MGA requires council meeting minutes to be properly stored and presented to council for approval in accordance with the MGA s. 208(1). Binders of council meeting minutes, agenda packages and bylaws were securely stored at the village office, in the care of the CAO. Meeting minutes were also available online through the village [website](#).

There was some recent slippage in the record keeping process, however, where some original documents could not be located, such as the signed hard copy of the council code of conduct bylaw 2018-01, and the June 2023 council meeting minutes that were approved by council on July 12, 2023. Current office staff were aware of some disarray in the office records. The diligent efforts of the current staff were appreciated as they did their best to locate and organize office records in response to various SAGE information requests during this municipal inspection.

Some recent, approved meeting minutes contain informality, typos, and information gaps. For example, the April 26, 2023 meeting minutes reference a 'long-winded' report:

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### *7.2 CAO report*

*Tim Gave a long-winded Verbal Report on finances and taxation. The timelines of each and the need for budget meetings.*

The April 26, 2023 council meeting adjourned at 9:00 p.m. yet a number of 'blank' resolutions are listed on the page, which is confusing to read, such as:

### *8.3 1st read of harassment bylaw.*

*Res#202304024 Motion made by councillor. Carried.*

Some meeting minute content should be addressed and edited. A previous version of the March 8, 2023 regular council meeting minutes contained an attached seven-page 'statement' documenting numerous 'issues' in an effort to explain council's request for a municipal inspection. This statement of council largely broadcasted speculation presented as facts. There are privacy concerns where various individuals, businesses, volunteer groups, and officials are referenced, and in a negative light. This statement is self-sabotaging. It casts aspersions in all sorts of directions and throws shade on the village with negative advertising from council. There are some areas of concern for the Village of Andrew management, and governance can feel overwhelming at times, however, 'the sky is not falling' for Andrew in the way this public statement portrayed.

The March 8, 2023 regular council meeting minutes were removed from the village website on September 8, 2023. Officials stated that the prior minutes contained a "non-FOIP copy" and were replaced by a new version.

Meeting preparation typically includes staff recommendations to accompany agenda items requesting council decisions. Records show this process was used in the past, such as the following February 23, 2022 example. This process was discontinued and should be reestablished to promote stronger meeting organization. Well written staff recommendations can assist council with resolution wording and provide clarity and efficiency to meetings.

# Municipal Inspection Report Village of Andrew, Alberta

AGENDA ITEM NO. 10.2

VILLAGE OF ANDREW REGULAR COUNCIL MEETING AGENDA ITEM							
<b>Meeting Date:</b> February 23, 2022	<b>Confidential:</b>	Yes	No <input checked="" type="checkbox"/>				
<b>Topic:</b> FOIP Training for Elected Officials							
<b>Originated By:</b> Sheila Lupul	<b>Title:</b>	Acting CAO					
<b>BACKGROUND:</b>							
The FOIP Act is provincial legislation that we, as Village of Andrew, are required to follow. The FOIP Act applies equally to all public bodies so that they can be transparent for the public and protect the privacy of individuals both inside and outside of the organization. As an elected official, it is important that you understand the basic principles of the FOIP Act. This helps to build and maintain public trust, which affects the Village's reputation. As public employees, we need to collect, use and disclose information appropriately and protect the privacy of individuals when applicable.							
<b>Documentation Attached</b>	Yes	No	<input checked="" type="checkbox"/>				
<b>DISCUSSION:</b>							
Training is available to ensure compliance. <ul style="list-style-type: none"> <li>It is recommended that all elected officials take to online basic FOIP training offered by Service Alberta. It is a short introduction to FOIP and is a very basic course. Upon completion you are awarded a certificate.</li> <li>Genera specializes in FOIP training and is offering a ½ day workshop directed at elected officials on March 31 for \$200.00.</li> </ul>							
<b>COMMUNICATION PLAN/COMMUNITY INVOLVEMENT:</b>							
<b>RECOMMENDED ACTION(S):</b>							
It is recommended that all of council partake in basic FOIP training as offered by Service Alberta and consider the workshop presented by Genera.							
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<b>DISTRIBUTION:</b>	Council: <input checked="" type="checkbox"/>	Admin: <input checked="" type="checkbox"/>	Other:				

A procedural issue arose at the July 12, 2023 regular council meeting when a council member was asked to take the meeting minutes. The CAO had abruptly left near the beginning of the meeting and after a recess, council continued with their meeting business. The CAO challenged the validity of council's process. Officials sought and received detailed legal advice showing that council's actions appeared acceptable, and not in contravention of the MGA. Moreover, the CAO duties were detailed including the safekeeping of minutes, not specifically for recording the meeting minutes. Legal counsel referenced the MGA 208(1):

### ***Performance of major administrative duties***

*208(1) The chief administrative officer must ensure that*

#### ***(a) minutes of each council meeting***

- (i) are recorded in the English language,*
- (ii) include the names of the councillors present at the council meeting,*
- (iii) are given to council for adoption at a subsequent council meeting, and*

## **Municipal Inspection Report Village of Andrew, Alberta**

- (iv) are recorded in the manner and to the extent required under section 216.4(6) when a public hearing is held;*
- (b) all bylaws, minutes of council meetings and other records and documents of the municipality are **kept safe**;*
- (c) the Minister is sent a list of all the councillors and any other information the Minister requires within 5 days after the term of the councillors begins;*
- (d) the council is advised in writing of its legislative responsibilities under this Act*

### **4.15 Special Meetings**

The MGA s. 194 grants authority for a council to hold special council meetings as needed. The need for special meetings occurs periodically since a council can only act by resolution or bylaw in a public meeting with a quorum present. Moreover, it would be an irregular matter for a council to convene to discuss municipal business outside a regular, special or committee meeting. It would be like showing up at an event without an entry ticket, to use an analogy.

Officials struggled with calling special meetings at times when they felt they were gathering for information purposes, with no resolutions expected.

On February 15, 2023 council met in closed session. There was no public record of minutes for this council meeting.

The May 17, 2023 budget meeting, previously mentioned should have been called as a special meeting. At the date of this report writing, officials again lacked clarity on whether or not to call a special meeting when they intended to gather as a quorum to receive information on village business. Officials were advised to again reach out to a Municipal Affairs advisor for guidance.

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- The former CAO commented on this budget meeting process stating that, *"The budget meeting was not advertised as it came together at the last minute."*

Officials sought advice in July 2023 and took proper action to call a special meeting on July 24, 2023 when they wanted to meet to discuss a matter in closed session. Meeting minutes were prepared to record council's actions. Even if the public will not be present, the public has right to know that their council is meeting to turn the dial, even a little bit, on a municipal business matter.

On September 11, 2023, council met for an 'information meeting' to receive advice from officials and discuss a contract matter. This was not called or advertised as a special meeting and no minutes were recorded.

The MGA s. 194(4) shown below permits council to meet on short notice and to waive notice to the public, yet meeting minutes still need to be recorded.

### ***Special council meetings***

*194 (4) A special council meeting may be held with less than 24 hours' notice to all councillors and without notice to the public if at least 2/3 of the whole council agrees to this in writing before the beginning of the meeting.*

**SAGE finds that** village officials acted in an irregular manner by conducting special meetings without providing proper notice to the public, or waiving notice to the public in accordance with the MGA s. 194(4); and for failing to document the minutes for these meetings.

## **4.16 Local Issues**

The Village of Andrew and the council were recently challenged with some high-profile issues and associated media attention.

### **4.16.1 Andrew School Closure**

The Andrew School closure was an important community issue. The school served 65 students from kindergarten to grade 6 (K-6). Several community facilities are located within the Andrew School building including: the village office, library, multipurpose room, bowling alley, fitness room, and 'Duck Stop' concession. A joint use agreement is in place for this shared facility.

The school is owned, governed, and operated by the Elk Island Public Schools (EIPS). On May 4, 2023 the EIPS board of trustees voted to approve the closure of Andrew School, effective June 30, 2023 (Res 099/2023: <https://www.eips.ca/download/416744>).

Highlights from the [May 4, 2023](#) EIPS special board meeting show how village council members lobbied for the needs of the community:

#### **EIPS Special Board Meeting: May 4, 2023**

#### **COMMENTS FROM THE PUBLIC PRESENTATION TO THE BOARD NO. 1: POSSIBLE CLOSURE OF ANDREW SCHOOL**

The Board heard a presentation from the Village of Andrew about the possible closure of Andrew School. Deputy Mayor Tammy Ann Pickett asked the Board, if it votes in favour of closing the school, to allow the village to retain the fitness equipment, playground, pictures, banners, school technology and library contents. The Board thanked Pickett for taking the time to present her thoughts to trustees.

## **Municipal Inspection Report Village of Andrew, Alberta**

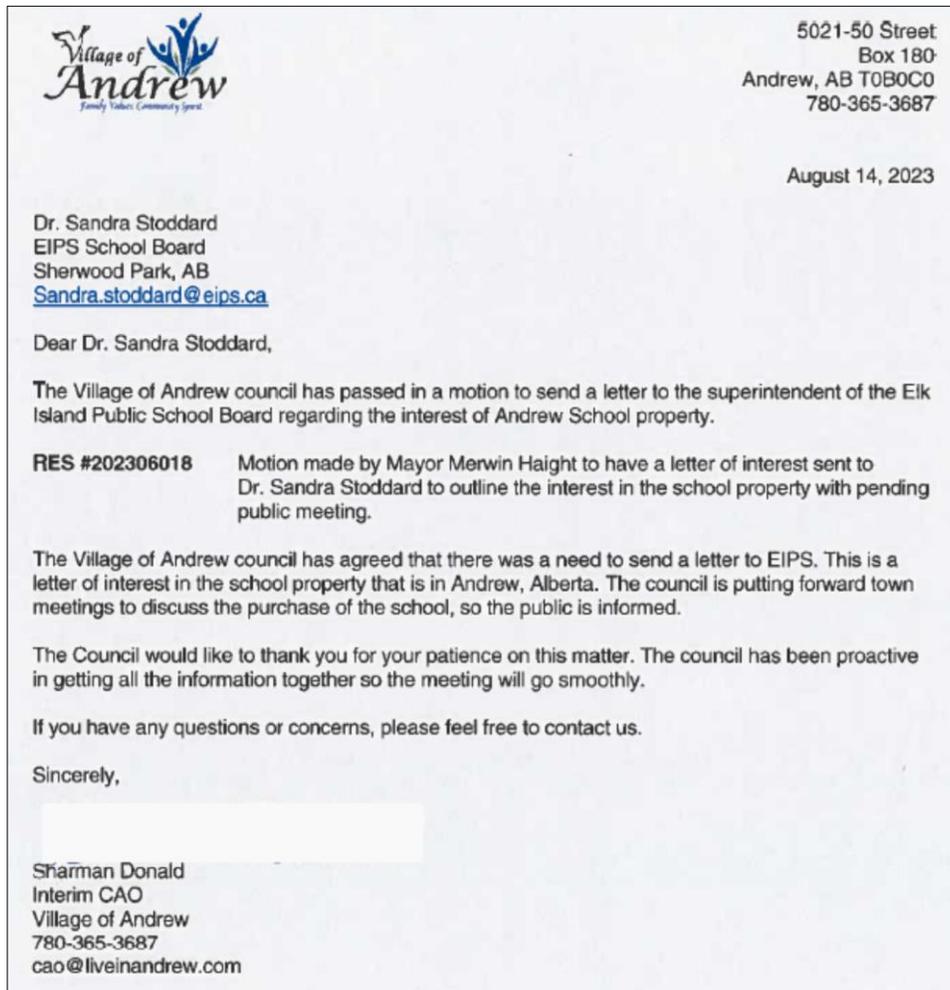
**PRESENTATION TO THE BOARD NO. 2: ANDREW SCHOOL** The Board heard a presentation from the Village of Andrew about the possible closure of Andrew School. Mayor Merwin Haight asked the Board, if it votes in favour of closing the school, to provide the village with the original lease-transfer agreement between Elk Island Public Schools, the Village of Andrew and Lamont County. He also asked the Board to provide the village with the estimated demolition costs as it has financial implications for the village and residents. The Board thanked Haight for taking the time to present his concerns to the Board.

**ANDREW SCHOOL** The Board approved a motion in favour of closing Andrew School, effective June 30, 2023. All EIPS students, kindergarten to Grade 6, who live within the Village of Andrew are redesignated to Mundare School. Students living outside the village are redesignated to either Lamont or Vegreville, depending on where they reside. For the 2023-24 school year, the school of choice fee is waived for any pre-registered Andrew School student, kindergarten to Grade 6.

EIPS will work closely with students and their families to ensure the transition to their new school is handled smoothly. It will also put a school transition plan in place, which will include consultations with students and families; school council groups from Andrew, Lamont, Mundare and Vegreville; school administration; staff; and EIPS senior administration. Additionally, EIPS will ensure facility requirements, support services and student transportation needs are dealt with in advance of the first day of classes on Aug. 31, 2023.

On June 28, 2023 Village council directed administration to send a letter of interest regarding the school property to the EIPS superintendent. A copy of this letter dated August 14, 2023 is provided below, referencing the need for public information.

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Council took steps to explore options to continue operations with a potential alternate building to be used as the village administration office, which is currently co-located within the Andrew School building.

At an August 31, 2023 special council meeting council approved building inspections to be completed at three different building locations within the village. As of the date of this report writing, village council was still exploring options for the location of the village administration office, recreation facilities, potential use of the school building, and the need for public consultation.

**SAGE recommendation:** That village council collaborate with EIPS and consider engaging a qualified firm to conduct a business case analysis of potential options for the destruction or retention of the Andrew School building, and the location or relocation of village facilities.

## **Municipal Inspection Report Village of Andrew, Alberta**

**SAGE recommendation:** That village council engage in meaningful consultation with the community and region prior to finalizing a decision on the Andrew School building.

### **4.16.2 Rumour of Community Purchase**

Rumours and information began circulating in early 2023 about members of an ecology organization targeting the Village of Andrew with alleged plans to purchase the entire village and create a sovereign community there. Backlash among local officials, residents, and business owners showed shock, concern, and outrage.

It is an unrealistic assertion that a group could purchase an entire community, or that property owners could be somehow forced to unwillingly sell their property to this group. Canada is a free country where individuals have democratic rights. Canada, Alberta, and municipalities – including the Village of Andrew are part of a civilized society where rules and laws apply to individuals and organizations to maintain peace and order. This includes safety, and peaceful enjoyment of one's property.

During the 2023 municipal inspection there was absolutely no indication of any 'hostile takeover' gaining traction by any group or organization. To the contrary, there were rumours circulating that the individuals that stirred up local concern in early 2023 were in trouble with the law on other matters, and that this caused the operation of the group to 'implode.'

A village council member was reported to attend an information meeting with members of this group in February 2023, and shared a recording on social media. This council member clarified that their intent was to promote awareness of the local issue and was not an endorsement of the group or its members in any way.

## **5 SECURITY**

### **5.1 Local Vandalism**

There were several rumours and limited official reports of local vandalism in the village in 2023. Rumours and local statements of vandalism to personal and public property were frequently reported in the local news. This led to a heightened sense of suspicion and, perhaps a bit of paranoia at times.

Some local officials felt that their property and pets were targeted, saying that they never had issues like this with “Tomfoolery” on their property before being elected to council. When documents at the village office were misplaced or could not be located readily, some officials speculated that someone was accessing the office after hours to cause trouble, move files around, and mess things up.

In one example, a concern surfaced on May 23, 2023 where staff were suddenly not able to access a storage room with village records using their regular keys. There was speculation that the lock was tampered with. The SAGE municipal inspection team was onsite conducting interviews this day. The CAO demonstrated to the inspector that their regular key did not work, and they had contacted the school division for assistance. The inspector tried opening the door. When holding a little pressure on the handle, the key fit the lock. It seemed that the door had shifted slightly, and the lock did not line up precisely. This was an innocent matter and it showed that no one had snuck into the building to purposely jam the storage room door lock.

The SAGE municipal inspection team contacted the local Two Hills RCMP detachment in June 2023 to inquire about reports of vandalism that were reported on behalf of the Village of Andrew. The evidence reported to the authorities did not at all match the reported rumours. At that time, there was only one official complaint reported. This report was from January 31, 2023 involving ‘frozen computers’ and a concern about a possible scam. It was reported that no financial information was given out and that the problem was resolved with a computer restart.

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Vandalism concerns were raised again in August 2023 when the municipal building was damaged. This was reported to the local RCMP and was also reported in the local news: *Andrew municipal building vandalized*; accessed from <https://lamontleader.com/andrew-municipal-building-vandalized-check-out-the-aug-9-leader/>

Historically, a November 2021 break-in at the Andrew Fire Hall prompted stronger security measures with the installation of security cameras for the building. This was reported in the local news: *Two Hills RCMP Continue to Investigate Andrew Fire Hall Break-in*; accessed from [https://issuu.com/thenewsadvertiser/docs/vna\\_december\\_22\\_2021\\_-\\_web/s/14380628](https://issuu.com/thenewsadvertiser/docs/vna_december_22_2021_-_web/s/14380628)

The MGA recognizes safety as a paramount municipal purpose:

### ***Municipal purposes***

*3 The purposes of a municipality are*

*(c) to develop and maintain safe and viable communities,*

The SAGE inspection team heard various local concerns regarding safety. Village council and the local RCMP were attentive to local concerns. At the October 11, 2023 council meeting, council discussed options for additional security and monitoring of village facilities. Council's intent to increase safety was sincere, despite an apparent piecemeal approach to facility monitoring. Also at this meeting, council passed a resolution to research bylaw officer contract options.

Council members were aware of the need to address derelict properties. Officials shared information on potential options used in other communities, such as a tax sub-class: *Edmonton city council approves tax subclass to crack down on derelict properties*; accessed from: <https://globalnews.ca/news/10005315/edmonton-derelict-properties-tax-subclass/>

Small communities such as the Village of Andrew may appear 'sleepy' to someone driving through at a late hour, however, there are many 'eyes on the street.' Small town neighbours are particularly watchful and can instantly spot a

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strange vehicle or anything unusual. Community safety can be optimized when neighbours keep an eye out for each other. There is a small-town adage stating, *"If you forget what you were up to one day, you can ask your neighbour!"*

The RCMP have a regular presence in the area and two officers currently reside in the Village of Andrew. The RCMP members maintain a strong relationship with village officials.

Everyone can help with community safety by calling **9-1-1** to report any suspicious activity. Residents are reminded to do their part in crime prevention.

For good measure, the local Two Hills, AB RCMP detachment contact is provided here, as accessed from: <https://www.rcmp-grc.gc.ca/detach/en/d/544>

- Telephone: 780-657-2820 - Administration
- Telephone: 780-657-2760 - Non-emergency
- Report a crime online here: <https://ocre-sielc.rcmp-grc.gc.ca/alberta>

### **5.2 Facility Access**

Access to the village office required both a physical door key and an access code to disable the building security system. User access records for the main entrance doors were maintained by EIPS since the village office was located in the Andrew School building. Security cameras for the village office were reported to be available, though not working.

A past school employee informed the municipal inspector that *"There was never an incident of anybody trying to get into the building"* in the ~25 years that the village office and school shared space with a joint use building. There were some false alarms during storms.

A past employee described a process of sharing building security code access after a CAO was dismissed:

*"...I was asked for my security code to Village...everyone was using my security code for quite awhile until I got a new one... but when*

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*I received mine, it was not in a sealed envelope like when Sheila gave me a new one..."*

Village officials described up to seven keys missing for the village office, based on an investigation by the CAO in early 2023. A key distribution policy was not in place. A related policy recommendation is provided earlier in this report.

Staff reported that the locks were changed on the exterior entrance door of the building on the village office side.

**SAGE finds that** village officials acted in an improper manner by failing to ensure security of the village office facility and user access accountability.

**SAGE recommendation:** That village council engage qualified expertise to conduct a community safety audit to reduce the risk of crime in the community, to ensure effective use and integration of facility monitoring systems, and to promote public education and awareness for crime prevention.

### **5.3 Records Management**

Keeping municipal records safe is one of the legislative duties assigned to the CAO. The MGA reads:

#### ***Performance of major administrative duties***

*208(1) The chief administrative officer must ensure that*

*(b) all bylaws, minutes of council meetings and other records  
and documents of the municipality are kept safe;*

It is expected that a municipality will not store the physical hard copy of all records in perpetuity. The volume of municipal correspondence alone requires a great deal of physical storage space and organization.

The MGA contemplates the need for periodic destruction of municipal records. Legislation is provided to direct this process, shown below. Additional guidance is provided in a related publication from Alberta Municipal Affairs titled: *Retention and Scheduling of Municipal Records [2021]* can be accessed from:

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<https://open.alberta.ca/publications/retention-and-scheduling-of-municipal-records-2021>

### ***Destruction of records***

*214(1) A council may authorize the destruction of the original bylaws and minutes of council meetings if the originals have been recorded by a method that will enable copies of the originals to be made.*

*(2) A council may pass a bylaw respecting the destruction of other records and documents of the municipality.*

*(3) A bylaw under subsection (2) must provide that if an individual's personal information will be used by the municipality to make a decision that directly affects the individual, the municipality must retain the personal information for at least one year after using it so that the individual has a reasonable opportunity to obtain access to it.*

It appears that the Village of Andrew has a Records Retention and Disposition [Bylaw No. 99-05](#), however, in reviewing this bylaw both online and in hard copy onsite it contains the first page only. The entire substance of the bylaw, retention schedules, and signing pages are missing. In its place, attached as part of the same document is an Access to Information Bylaw No. 99-05. It appears that these bylaws share the same number in error. Both bylaws should be reviewed to ensure accuracy and appropriateness.

The SAGE municipal inspection team heard concerns that some village records were destroyed by a past CAO. Through interviews, SAGE confirmed that this is true. Some village records were destroyed in early 2022, under the direction of the CAO at that time. SAGE also confirmed that the volume and type of records did not match the rumours and unfair allegations that accompanied this concern. This former CAO provided the following comments on this matter:

*"Some old tax notices were disposed of. There is no record because all that information was available in the software system. It was just copies of tax notices. There were lots of newspaper articles.*

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*There was nothing by way of land or legal or maps or laws or any minutes. Nothing like that. It was all transitory stuff that should have been destroyed after a seven-year cycle. A seven-year cycle is followed in other municipalities where documents like old invoices and cheques are destroyed. There was a lot of those documents in Andrew that. There was no cycle. I don't think there was a record kept of what documents were destroyed."*

There is no record of which documents were destroyed, and the records management bylaw is missing. The volume of records on site and difficulty locating documents show that a stronger records management process is needed for the Village of Andrew.

The destruction of records in 2022 appeared to be an honest organizational effort. Unfortunately, this created a perfect storm of speculation and unfair innuendo that a 2022 CAO was somehow responsible for documents that are misplaced or poorly organized in 2023.

Prior administration described a records management process with periodic destruction of transitory records. The process involved more than one staff member and a list was kept showing what records were destroyed.

**SAGE finds that** village officials acted in an irregular manner in managing the Records Retention and Disposition Bylaw No. 99-05.

**SAGE finds that** a former CAO acted in an irregular manner by not advising the council of their legislative responsibility to provide guidance, by bylaw, on the destruction of records, in accordance with the MGA s 214, and for not properly documenting the destruction of records in 2022.

**SAGE recommendation:** That village council pass a new records management bylaw that complies with legislation and the *Retention and Scheduling of Municipal Records* guidelines; And that staff receive records management training.

## **6 ASSESSMENT AND TAXATION**

### **6.1 Assessment**

The total assessment value of all property types in the Village of Andrew is \$37,432,300. This includes \$26,865,640 residential, \$4,589,430 non-residential, and \$6,045,740 exempt assessment value. The local assessment base is primarily residential at ~72%.

The MGA requires municipalities to prepare and send assessment notices annually, and this can be together with the annual tax notice.

#### ***Assessment notices***

*308(1) Each municipality must annually*

*(a) prepare assessment notices for all assessed property, other than designated industrial property, shown on the assessment roll referred to in section 302(1), and*

*(b) send the assessment notices to the assessed persons in accordance with the regulations.*

*(4) The assessment notice and the tax notice relating to the same property may be sent together or may be combined on one notice.*

#### ***Contents of assessment notice***

*309(1) An assessment notice or an amended assessment notice must show the following:*

*(c) a statement that the assessed person may file a complaint not later than the complaint deadline;*

*(d) information respecting filing a complaint in accordance with the regulations.*

The Village of Andrew contracts a qualified firm to prepare assessments and provide assessment services. A related [Designated Officer Bylaw 2008-01](#) is in place to appoint an assessor and establish the assessor as a designated officer position. This bylaw requires an update to name the current assessor.

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**6.1.1 Assessment Complaints**

Taxpayers have a right to file an assessment complaint on an annual basis, as well as a right to a fair hearing. There was no record of assessment complaints filed prior to 2022. One assessment complaint was filed in 2022. It was filed on time, before the appeal deadline and the \$50 complaint fee was provided.

According to the statute governing a Local Assessment Review Board (LARB) the LARB Clerk is required to communicate with the parties and schedule any necessary hearings. No LARB hearing was scheduled for this 2022 assessment complaint.

The complaint was related to the market building classification of a residential property, tax roll 20076000. Some current village officials alleged that past village officials changed the market/building class for a 1982 'ready-to-move (RTM)' residential property to a '1-Storey & Basement' classification. The alleged motivation was to increase the resale value of the property to make it seem more valuable than it was.

Assessment records for this property were reviewed. The current assessment provider prepared records since 2007. According to this assessor, all historical records show that this property has always been classified as a 1-Storey & Basement 003-04-00 (MT - Qu - St).

An undated hard copy assessment file from prior to 2007 shows the improvement type as a 1-Storey Residence, with attached garage, concrete substructure, and a consistent classification code of 003-04-00. There are no visible corrections, alterations, or edits made on the historical hard copy scanned file. The current assessment provider could not verify the veracity of the assessment records from prior to 2007.

**SAGE finds that** according to all available historical assessment records, there was no evidence of any ill-intended assessment classification change by any past village officials or designated officers regarding tax roll 20076000.

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There were no current appointments of trained members to serve as an assessment review board panel members or clerk. Records show that a past employee had previously served as a trained clerk. The Village of Andrew [Assessment Review Board Bylaw 2021-01](#) was in place to establish assessment review boards, as required by the MGA:

### ***Assessment review boards to be established***

*454 A council must by bylaw establish*

- (a) a local assessment review board to hear complaints referred to in section 460.1(1), and*
- (b) a composite assessment review board to hear complaints referred to in section 460.1(2).*

In addition to the MGA requirements, the *Matters Relating to Assessment Complaints Regulation, 2018, Alta Reg 201/2017* (MRAC) provides greater detail on the assessment complaint hearing procedures. Accessed from:

[https://open.alberta.ca/publications/2017\\_201](https://open.alberta.ca/publications/2017_201)

### ***Hearing before Local Assessment Review Board Panel***

#### ***Scheduling and notice of hearing***

*4 If a complaint is to be heard by a local assessment review board panel, the clerk must*

- (a) provide, no later than the date the notice of hearing is provided to the complainant, written acknowledgement to the complainant that the complaint has been received,*
- (b) schedule a hearing date, and*
- (c) after a copy of the complaint form has been provided to the municipality in accordance with section 462(1) of the Act, notify the municipality, the complainant and any assessed person or taxpayer other than the complainant who is affected by the complaint of the date, time and location of the hearing and the requirements and timelines for disclosure of evidence not less than 35 days before the hearing date.*

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The Village of Andrew did not have proper appointments in place to provide a timely, fair LARB hearing of the one 2022 assessment complaint received. The taxpayer did not receive the opportunity to bring their concern forward in a properly convened assessment review board hearing. Proper process was not followed on this matter, despite the taxpayer having a right to appeal their assessment. Staff turnover and loss of corporate knowledge impacted this process. One past interim CAO involved with this matter stated that *"It is possible that this ball got dropped."*

Prior administration explained that they never needed to have assessment complaint hearings. Taxpayer assessment queries were discussed with the assessor and were typically resolved at this preliminary stage. A previous staff member was trained as an assessment review board clerk.

Records show that there never was an assessment complaint hearing scheduled for tax roll 20076000. This 2022 assessment complaint matter was eventually resolved in early 2023 to the apparent satisfaction of both the complainant taxpayer and the respondent village assessor. These individuals had various discussions and information sharing between them. A May 5, 2023 building re-classification for this property shows 'Manufactured Home – Double' and the assessment value was reduced by \$43,300.

Despite having an updated assessment value and correct property classification, the May 31, 2023 assessment and tax notice reflected the prior, incorrect assessment value. Office staff confirmed that an amended notice was mailed on June 26, 2023. This taxpayer felt targeted by the village in early August 2023 when their curbside garbage collection was missed for the third time. Public works staff reported that they had 'felt' these garbage bags and did not collect them as they were mistaken for yard waste instead of household garbage.

The municipal inspector followed correspondence and interactions between village officials regarding this assessment complaint matter during 2023. Mayor Haight sent an email notification to the CAO and council to explain that he

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would recused himself from serving on an assessment review board related to this matter due to his relationship with the complainant.

The tone of communications from the CAO's office was surprisingly combative towards the complainant at times. A conciliatory approach would be expected since the village was at fault in handling this assessment complaint matter. The CAO did not clearly inform the council of their legislative responsibilities on assessment matters as required in the MGA:

### ***Performance of major administrative duties***

*208(1) The chief administrative officer must ensure that*

*(d) the council is advised in writing of its legislative responsibilities under this Act.*

An outstanding part of this issue is the taxpayer's request for reimbursement of appraisal costs incurred while trying to resolve the assessment issue with their own resources, as well as compensation for overpayment of taxes in 2022. This request appears reasonable. This taxpayer received unprofessional treatment during this process, and the village failed to accommodate the taxpayer's right to an assessment complaint hearing.

The SAGE municipal inspection team heard additional concerns from residents and business owners regarding assessments and comparatively high taxes for the limited services provided by the village. One taxpayer stated that when they inquired about filing a 2022 assessment complaint, village officials gave the impression that there was a risk that the property assessment may increase if they filed an assessment complaint. This implied 'gamble' caused them to be concerned. They chose to keep silent and did not file an assessment complaint.

The assessment complaint process is evidence-based with a burden of proof on both the complainant (taxpayer) and respondent (assessor). Opinions and feelings are not evidence. Evidence from comparable properties is needed for an assessment review board to determine if an assessment is correct. Market sales and/or equity (assessment) comparisons is needed to show similar property values.

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An assessment complaint should be handled promptly by village officials in the normal course of municipal business. This assessment complaint highlights a lack of attention and resources for the Village of Andrew to sustain their legislative obligation to taxpayers to handle assessment complaints. It would be practical for the village to consider sharing intermunicipal services for assessment review boards. The MGA provides this authority:

### ***Joint establishment of assessment review boards***

*455(1) Two or more councils may agree to jointly establish the local assessment review board or the composite assessment review board, or both, to have jurisdiction in their municipalities.*

**SAGE finds that** village officials acted in an irregular manner in handling a 2022 assessment complaint, in contravention to the MGA.

**SAGE finds that** a former CAO acted in an improper manner when he discouraged them from filing an assessment complaint in 2022 by implying that their property taxes may increase.

**SAGE finds that** a former CAO acted in an improper manner by using a combative tone when communicating with a taxpayer regarding filed or potential assessment complaints.

A former CAO was informed of this finding and stated that he wanted to explore regional options to hear this assessment complaint. In addition, he provided the following response:

*"I had communicated with the complainant by email since January 2023 and wanted to sit down and have a conversation to work things out. The complainant would talk with Mayor Haight but would not come in and meet with me. If my tone appeared combative, it is because I was tired of being threatened with legal action."*

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### **SAGE recommendations regarding assessment:**

1. That village council review and update the Designated Officer Bylaw 2008-01.
2. That village council consider participating in a joint assessment review board, as per the MGA s. 455, and begin discussions with municipal neighbours.
3. That village council provide a reasonable reimbursement of costs, including the \$50 complaint fee, and provide an apology letter to the property owner of tax roll 20076000 for the confusion and errors made in handling their 2022 assessment complaint.

## **6.2 Taxation**

Municipal governments have taxation powers. This includes the power to levy and collect annual property taxes. The MGA requires an annual budget process and property tax bylaw, as well as publication and certification that tax notices have been sent:

### ***Property tax bylaw***

*353(1) Each council must pass a property tax bylaw annually.*

*(2) The property tax bylaw authorizes the council to impose a tax in respect of property in the municipality to raise revenue to be used toward the payment of*

*(a) the expenditures and transfers set out in the budget of the municipality, and*

*(b) the requisitions.*

### ***Publication of notice***

*311(1) Each municipality must publish in one issue of a newspaper having general circulation in the municipality, or in any other manner considered appropriate by the municipality, a notice that the assessment notices have been sent.*

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*(2) All assessed persons are deemed as a result of the publication referred to in subsection (1) to have received their assessment notices.*

### ***Certification of date of sending tax notice***

*336(1) A designated officer must certify the date the tax notices are sent under section 335.*

*(2) The certification of the date referred to in subsection (1) is evidence that the tax notices have been sent and that the taxes have been imposed.*

### ***Deemed receipt of tax notice***

*337 A tax notice is deemed to have been received 7 days after it is sent.*

## **6.2.1 2023 Taxation Process**

The Village of Andrew complied with legislation by approving annual budgets and passing property tax bylaws each year. Most recently, Tax Rate Bylaw 2023-005 was passed on May 24, 2023.

Upon a detailed review, calculation errors were found in both the budget document template and the 2023 property tax bylaw. For example:

1. *Municipal section* of the bylaw p. 2: The total taxable assessment used in the budget document is \$31,386,560 while a \$31,275,220 total is used in the bylaw. There is a calculation error showing a total \$27,865,640 assessment on the bylaw.
  - Assessment records received from the village assessor show a \$31,122,020 total taxable assessment, which differs from the values shown in both the 2023 budget and the bylaw.
2. *ASFF Requisition section* of the bylaw, p.2: Calculating a basic reconciliation of values (tax rate x assessment) shown on the bylaw does not produce the \$95,395.79 tax levy as shown. The ASFF tax levied is only \$78,782 (\$68,776 res, \$10,006 non-res). This shows an under levy of **-\$16,614.05**.

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- The tax report generated when tax notices were issued shows a \$81,030.08 ASFF tax levied. The 2023 ASFF under levy may be **-\$14365.71** rather than **-\$16,614.05**.
  - Transaction records show an over levy in both 2021 and 2022, with a \$1,400.24 combined net over levy as summarized below:

2021	\$8,232.10
2022	\$7,533.85
2023	<u>-\$14,365.71</u>
	\$1,400.24 net over levy ASFF
- 3. *Senior's Foundation* section of the bylaw, p.2: This references the Marquis Foundation, which appears to be from southern Alberta, rather than the local [Lamont County Housing Foundation](#).
  - The tax bylaw shows a 33,759,591 assessment total which differs from the 31,122,020 total assessment.
  - The tax report shows a "Requisition - Lamont Found." amount of \$12,847.00 which differs from the \$18,866 tax levy shown for the Heritage Foundation.
- 4. *Minimum tax*: The tax bylaw section 3.0 sets a \$525 minimum tax payable for all properties as property tax for general municipal purposes. A \$26,250 minimum tax portion is shown.
  - The budget document shows \$21,000 generated from residential minimum tax and \$0.00 generated from non-residential.
  - Assessment details show a 68,510 value for vacant commercial land. The actual amount of minimum tax generated is unclear. It is also unclear if the minimum tax rate was applied equally to all properties.
- 5. *Consistency*: The bylaw refers to "mill rate" and "tax rate" inconsistently. These terms are not interchangeable. A mill rate is a tax rate x1000. Tax rates can be expressed in 'mills' for ease of reference, without so many zeros. For example, a tax rate of 0.012345 can be shown as a 12.345 mill rate.

## **Municipal Inspection Report Village of Andrew, Alberta**

The SAGE municipal inspection team heard local concerns from residents and businesses about deteriorating infrastructure, safety, council leadership, and the overall value for taxes despite recent tax and utility rate increases.

The 2023 budget was presented to council in a spreadsheet format that some council members struggled to understand. Budget records from prior years show examples of a stronger budget process with more clear reports from 2020 and 2021 comparing the budget to actual.

The [2022-07 Property Tax Bylaw](#) section 4 states that a special tax is established for Main Street snow removal under the MGA s. 382(1), as follows:

*4. That the Municipal Council pursuant to the Municipal Government Act Section 382(1) establishes a special tax for properties on Main Street Commercial Trade Areas for the purpose of snow removal based on frontage area to raise the amount of seven thousand, one hundred and fifty dollars (\$7150).*

The Main Street snow removal special tax details are vague, and no related tax rate is shown on the bylaw. It is expected that a special tax bylaw would stand alone as an entirely separate document, and that detailed costs would be shown for all affected properties. The cost of Main Street snow removal would appear to benefit the entire community, with the cost of service included in the general municipal taxation rate.

The MGA s. 383(1) quoted below permits a special tax to be imposed by bylaw on an area that will benefit from a specific service:

### ***Taxable property***

*383(1) The special tax bylaw authorizes the council to impose the tax in respect of property in any area of the municipality that will benefit from the specific service or purpose stated in the bylaw.*

## **Municipal Inspection Report Village of Andrew, Alberta**

The snow removal special tax anomaly was in place for several years, reaching back to at least 2015. It was not part of the village's 2023 property tax bylaw.

Numerous calculation errors compromised the integrity of 2023 budget process and 2023 property tax bylaw for the Village of Andrew. A fresh start with a clean slate and new budget process are needed to avoid future copy-paste errors, and circular reference warnings in budget spreadsheets.

The 2023 village taxation process is in an unfortunate state, beyond a typo or immaterial calculation error. The 2023 taxation process was reckless and is not redeemable. The 2023 budget, 2023 property tax bylaw, and all 2023 tax notices should be completely re-done to ensure that the municipal taxation powers are used with fairness and accuracy.

Given the late time in the taxation year and limited village administrative capacity, it is more practical for village officials to correct the 2023 taxation errors and account for over/under levies within the 2024 budget and taxation process.

**SAGE finds that** village officials acted in an improvident manner where several inaccurate calculations were made during the 2023 taxation process.

The former CAO was informed of this finding and provided the following response:

*"There was a rush to complete the 2023 budget and property tax bylaw. Some calculations were 'done on the fly.' The CAO computer did not have access to the municipal software program at that time. I relied on hard copy documents and all working papers were kept in the CAO's office."*

**SAGE finds that** certain village councillors acted in an improper manner by approving the 2023 budget which they did not fully understand.

**SAGE finds that** past village officials acted in an irregular manner by imposing a special tax for Main Street snow clearing without passing a special tax bylaw in accordance with the MGA s. 383(1).

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**SAGE recommendations regarding taxation:**

1. That any material variances identified in the 2023 audited financial reporting be considered when preparing the 2024 operating and capital budgets for the Village of Andrew.
2. That the bylaw title "Property tax bylaw" be used in the future to match the legislative reference in the MGA s. 353.
3. That *either* mill rates or tax rates be shown on the property tax bylaw, *not both*, to avoid confusion.
4. That the operating and capital budgets be provided to council in a format that is clear and acceptable to them.

## **6.2.2 Tax Recovery**

Municipal taxation powers extend to recovery of tax arrears and can result in a property tax sale if they remain unpaid. A related publication from Alberta Municipal Affairs, titled: *A guide to tax recovery in Alberta* [2019] can be accessed from: <https://open.alberta.ca/dataset/564abe15-4057-4db1-974a-4af7b3230ec8/resource/28b5508c-cc21-405e-b593-c339e581b5e5/download/a-guide-to-tax-recovery-in-alberta.pdf>

Tax recovery is not optional. Legislation requires that a tax arrears list be prepared, along with notifications. The council must set reserve bids for parcels offered for sale at a public auction, and the municipality may enter into an agreement with the owner for the payment of tax arrears.

### ***Tax arrears list***

*412(1) A municipality must annually, not later than March 31,  
(a) prepare a tax arrears list showing the parcels of land in the municipality  
in respect of which there are tax arrears for more than one year,*

### ***Offer of parcel for sale***

*418(1) Each municipality must offer for sale at a public auction any parcel of  
land shown on its tax arrears list if the tax arrears are not paid.*

*(4) The municipality may enter **into an agreement with the owner** of a  
parcel of land shown on its tax arrears list providing for the payment of the  
tax arrears over a period not exceeding 3 years, and in that event the parcel  
need not be offered for sale under subsection (1) until*

*(a) the agreement has expired, or  
(b) the owner of the parcel breaches the agreement, whichever occurs first.*

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Tax recovery and arrears were raised as a concern in the Village of Andrew. Unpaid taxes can impact cash flow and operations. This can lead to overall property tax increases if tax arrears remain uncollected.

Records from October 2019 show that a tax arrears list was prepared and submitted to the Registrar on March 12, 2019, and that *"the village's recent tax sale proceedings have met the legislative requirements including council setting reserved bids and advertising."*

In 2021, records show 62 properties registered on the March 17, 2021 tax arrears list. This is approximately 17% of the 355 taxable properties in the village. Four of these properties had the tax recovery notification discharged by May 11, 2021.

Yearend working papers from December 2021 showed that the property tax 'Allowance' for doubtful accounts consisted of eight properties that the village took over between 2020-2018, as well as an additional 10 properties were listed as "over 3 years." The files states that properties will go up for tax sale in 2022.

A tax arrears summary is provided below based on audited financial statements available. The 2021 tax arrears increase lines up with the relatively large number of properties registered on the 2021 tax arrears list.

<b>Taxes Receivable</b>				
	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Current	\$ 98,425	\$ 72,608	\$ 60,832	\$ 53,044
Arrears	\$ 157,383	\$121,422	\$ 93,022	\$ 92,306
Allowance	<b>-\$ 95,291</b>	<b>-\$ 89,291</b>	<b>-\$ 83,291</b>	<b>-\$ 59,667</b>
<b>Total</b>	<b>\$ 160,517</b>	<b>\$104,739</b>	<b>\$ 70,563</b>	<b>\$ 85,683</b>
Allow/Rec	59%	85%	118%	70%

Past administration explained that the 2021 tax arrears list contained an unusually large number of properties (62) because some were included from the prior 2020 year. The March 2020 tax arrears list was prepared and submitted to the Registrar but was rejected and returned to the village due to the timing of the Covid-19 pandemic. There was a broader government tax deferral response

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initiated at that time as an owner's ability to pay could be impacted by the pandemic. The 2020 tax arrears list was not submitted. The process was caught up in 2021 where all remaining affected properties were included on the March 17, 2021 tax arrears list.

Past officials described a tax recovery process where tax agreements to pay arrears were commonly in place with property owners as per the (MGA 418(4)). Past councils set tax sale dates and reserve bids, but the process never progressed to a tax sale public auction. An annual tax arrears list would be prepared, and administration would work with residents. When they had arrears owing, residents would either come in to pay or enter into a tax agreement.

Past officials provided details on the relatively large balance for the allowance for doubtful accounts, totalling \$95,291 as of December 31, 2021. A few properties are contributing the most to this balance. The tax arrears remain on the financial statements, though it is doubtful that the tax arrears will be collected for these properties. For example, two of the properties had extensive water damage and large, unpaid utility bills which were added to the tax arrears. The property damage was not covered by insurance and the owner could not repair it. It was not in the best interest of the village to transfer the title to the municipality under MGA s. 424 when the property is in disrepair.

**SAGE finds that** past administration followed the tax recovery procedures required by legislation in 2021 and prior years. Past officials exercised prudent management in the tax recovery process.

**SAGE finds the** explanation regarding the allowance for doubtful accounts from past village administration to be reasonable. The large allowance for doubtful accounts (AFDA) was impacted by extenuating circumstances and brownfield properties.

### **6.2.3 2023 Tax Sale**

The MGA requires specific advertising and notice to be provided to owners and any person that has an interest in any property being offered for sale by public auction. Legislation also protects the interests of property owner by requiring a council to set a reserve bid for each parcel that is as close to its market value as possible.

***Reserve bid and conditions of sale***

*419 The council must set*

- (a) for each parcel of land to be offered for sale at a public auction, a reserve bid that is **as close as reasonably possible to the market value** of the parcel, and*
- (b) any conditions that apply to the sale.*

***Advertisement of public auction***

*421(1) The municipality must advertise the public auction*

- (a) in one issue of **The Alberta Gazette**, not less than 40 days and not more than 90 days before the date on which the public auction is to be held, and*
  - (b) in one issue of a **newspaper** having general circulation in the municipality, not less than 10 days and not more than 20 days before the date on which the public auction is to be held.*
- (2) The advertisement must specify the date, time and location of the public auction, the conditions of sale and a description of each parcel of land to be offered for sale.*
- (3) The advertisement must state that the municipality may, after the public auction, become the owner of any parcel of land not sold at the public auction.*
- (4) Not less than 4 weeks before the date of the public auction, the municipality must send a copy of the advertisement referred to in subsection (1)(a)*
- (a) the owner of each parcel of land to be offered for sale,*
  - (b) each person who has an interest in any parcel to be offered for sale that is evidenced by a caveat registered by the Registrar, and*

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*(c) each encumbrancee shown on the certificate of title for each parcel to be offered for sale*

Village council set an April 28, 2023 tax sale date during their [February 8, 2023](#) regular council meeting, and passed a resolution setting a "minimum of \$5,000." This resolution #202302014 is unclear and anonymous, with no council member referenced in the motion:

### **9.6 Tax sale March 31, 2023**

*Res#202302014 Motion to set tax sale amount to a minimum of \$5000 so the lit could be sent to the Alberta Gazette for the advertisement. Carried*

*Res#202302015 Motion made by Merwin Haight to set Tax auction date up to 40 days after the ad is in the Alberta Gazette, the auction date to be Friday April 28<sup>th</sup>, 2023. Carried*

The [February 28, 2023 issue of the Alberta Gazette](#) (page 199) contains the Village of Andrew public auction advertisement involving 12 properties. Village staff confirmed that notification letters were sent to the affected property owners on February 6-7, 2023. These would not have contained the February 28, 2023 Alberta Gazette advertisement. No related advertisement was placed in a local newspaper, though that local advertising is required by the MGA s. 421(1)(b).

Of the 12 properties listed on the Alberta Gazette public auction advertisement, village staff confirmed the following details:

- Two tax arrears accounts were paid in full.
- Four entered into a tax payment plan agreement,
- Four sold at the public action.
- Two were part of the public auction but did not sell.

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The April 12, 2023 regular council meeting minutes show that council hired an auctioneer and set reserve bids for each property at 25% of their value:

### **9.3 Auctioneer for tax sale**

*Res#202304019 Motion made by Councillor Evan Genung to have Allen B. Olson Auction Services Ltd. to be the auctioneer for the Village of Andrew tax sale for April 28<sup>th</sup> at 6pm 2023. The terms on the letter presented with a fee of \$500 and 2% on the selling price on any property that is sold. Carried*

*9.9 Res#202304013 Motion made by Councillor Evan Genung to set a reserve bid at 25% of the assessed values of all the properties presented to the council for the tax sale on April 28<sup>th</sup>, 2023.*

The April 28, 2023 tax sale spilled over into the [May 10, 2023](#) regular council meeting where bidders attended the meeting as delegations and negotiated offers with village council. The council discussed the bids in closed session and reopened the meeting to pass various resolutions to either accept or not accept the bids.

Members of the SAGE municipal inspection team were present and observed the May 10, 2023 council meeting, including council's closed session deliberations.

In the open public meeting, some bids were referred to as "If bids." According to an online search, "An "if sale" is when the reserve price or reservation price has not been met or exceeded during an auction." Accessed from:

<https://www.carstrucksandboats.com/blog/what-is-an-if-sale>

The tax sale sections from the May 10, 2023 regular council meeting minutes read as follows:

### **5. Delegations**

*Bidder #101-1344 eo3 Gave reasons for the increase of 21000.00 bid.*

*Bidder #101-389NY8 17 Told council that the bid of 4000.00 stays.*

*Bidder #111-1344 EO 116 Gave reasons for the stay of 25000.00 bid.*

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*Res#202305007 Motion by Councillor Tammy Pickett to go into closed session at 7:45pm for discussion of bidders. Carried*

*Res#202305008 Motion by Mayor Merwin Haight to come out of closed session at 8:25pm for discussion of bidders. Carried*

***Items for action***

*Bidder #101 property 1344 E03*

*Res#202305009 Motion made by Mayor Merwin Haight to approve the \$4000.00 bid on the property in tax sale (if bid) at 1344 eo3, the title to be clear for the new owner. Carried*

*Request for decision*

*8.2 Bidder #101 property 389NY 8 17*

*Res#202305010 Motion made by Councillor Benny Dubitz to not accept the bid of \$21,000.00 on the property in tax sale (if bid) at 389NY 8 17, The council has set a \$26,750.00 min amount to purchase this property. Carried*

*Request for decision*

*8.3 Bidder #111 1344 E0 116*

*Res#202305011 Motion made by councillor Barry Goertz to accept the bid of \$25,000.00 on the property in tax sale (if bid) at 1344 E0 116, the title to be clear for the new owner. Carried*

Village officials followed a most unusual tax recovery process in 2023. Some legislative requirements were followed, and some were not. A legislative process needs to be strictly followed. It is not a mere guideline and is not a menu to pick and choose from. This is necessary to inform and give property owners every chance to pay their arrears and reestablish a clear title to their property.

Property tax sales often involve property owners experiencing hardship. If a property is scheduled to be sold at a public auction, municipal officials have a duty to act as stewards and ensure that the property is sold for as close as possible to market value. This resembles a client or guardian relationship when officials exercise municipal tax recovery powers. A degree of compassion should

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be present. Delinquent taxpayers still have rights, and the MGA requires that their equity is protected during the tax recovery process. There is a different, much stricter process to sell a residential home through a tax sale public auction, than to sell an old, used car on the auction block.

Tax sale proceeds are not a windfall for a municipality. Municipalities are only entitled to the tax arrears and costs owing on the property. After the municipal tax arrears debt is recovered, the remaining funds must be deposited into a *Separate account for sale proceeds* as per the MGA s. 427(1), and an entitled person can make an application to access it within 10 years.

### ***Distribution of surplus sale proceeds***

*428(1) A person may apply to the Court of King's Bench for an order declaring that the person is entitled to a part of the money in the account referred to in section 427(1).*

*(2) An application under this section must be made within 10 years ...*

The MGA s. 419 places the responsibility on the council to set reserve bids. The CAO is responsible to inform the council of their legislative duties.

A February 8, 2023 Res#202302014 references "*set tax sale amount to a minimum of \$5000....*" This resolution is irregular as it does not show who made the motion. Establishing a flat rate minimum of \$5,000 does not comply with the MGA for properties of varying values. The related advertisements do not show the reserve bid amounts. This information would be helpful information for potential bidders and property owners.

Assessments are based on market value. Property assessment records for all these properties were available to the municipality as part of the annual assessment roll. By Res#202304013 on April 12, 2023 village officials set tax sale reserve bids at 25% of the assessment value for each respective property.

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Assessment records for the 2022 assessment year (used for 2023 taxation) show the following details for the two tax sale properties that were sold by village council as part of the 2023 public auction:

Roll: 10015000	
Legal: 1344EO 1 16	
Address: 5012 52 ST	
Main Level & Conc. Slab Office; 1,236 Sq Feet; 1935	
Commercial Land with Buildings	
71,230	Assessed value
<u>-25,000</u>	Sale amount, May 10, 2023
\$46,230	Diff between sale value and assessment value

Roll: 10065000	
Legal: 1344EO 3 30	
Address: 5016 50 ST	
Vacant Commercial	
7,920	Assessed value
<u>-4,000</u>	Sale amount, May 10, 2023
\$3,920	Diff between sale value and assessment value

The tax sale property referenced in the May 10, 2023 Res#202305010 which did not sell is classified as Roll 10194000, Residential Land with Buildings, and has a \$65,280 assessment value.

Properties reported to be sold at the April 2023 tax sale public auction include:

- Roll: 10013000, Vacant Commercial Land, \$6,190 assessment
- Roll: 10014000, Vacant Residential Land, \$5,690 assessment

The evidence shows that in 2023 village officials sold tax sale properties below market value at auction, most notably is Roll 10015000 which council sold for \$46,230 less than market value (as at the July 1, 2022 valuation date). Officials discussed the respective tax arrears balance owing on the properties, though these details seemed to be secondary to finalizing the sale.

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Village officials erred as stewards during the tax recovery process. This caused some property owners to lose their property and some equity. Previous property owners, such as the previous owner of Roll 10015000 deserve compensation to be 'made whole' for the difference between the market value and the tax sale value.

The MGA permits a municipality to take title and become the owner of a parcel that is not sold at the public auction. The municipality may then dispose of the parcel at a price that is as close as reasonably possible to market value. See below:

### ***Transfer of parcel to municipality***

*424(1) The municipality at whose request a tax recovery notification was endorsed on the certificate of title for a parcel of land may become the owner of the parcel after the public auction, if the parcel is not sold at the public auction.*

### ***Right to dispose of parcel***

*425(1) A municipality that becomes the owner of a parcel of land pursuant to section 424 may dispose of the parcel*

*(a) by selling it at a price that is as close as reasonably possible to the market value of the parcel, or*

*(b) by depositing in the account referred to in section 427(1)(a) an amount of money equal to the price at which the municipality would be willing to sell the parcel under clause (a).*

*(2) The municipality may grant a lease, licence or permit in respect of the parcel.*

There was no evidence that village officials acted with hostile intent during recent tax sale proceedings. Rather, the group was ill-informed and did not 'do their homework' to understand the tax sale process. Village council followed advice from administration and 'went along' with the process without reading and following the rules and requirements set out in legislation.

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This resulted in a reckless administration of the 2023 tax sale process and failed stewardship of taxpayer's property interests. The equity of some property owners was compromised by a noncompliant tax sale process. Tax sale proceeds have been deposited and land titles are apparently in the process of being transferred to new owners. Current administration stated that the tax sale proceeds were not yet applied to the tax arrears owing to the village as per the direction of the previous CAO.

**SAGE finds that** village officials acted in an improvident manner when they failed to follow legislation to set fair reserve bids as close to market value as possible. Officials did not steward the public interest in a reasonable manner for individuals and properties that were part of the 2023 tax recovery process.

**SAGE finds that** village officials acted in an improper manner through the 2023 tax sale public auction. Rather than a clear bidding process starting with a fair reserve bid, the tax sale continued as part of a council meeting and included council deliberations on tax sale bids.

**SAGE finds that** the village CAO acted in an irregular manner by failing to advise village council in writing of their legislative responsibilities related to the tax recovery process.

**SAGE finds that** the village CAO acted in an irregular manner by failing to follow MGA tax recovery advertisement and notification requirements.

Village council was informed of these findings and provided the following comments:

- "It was council's intention to set the reserve bids at 25% lower than the assessed value, not the 25% of the assessed values as stated in Res#202304013.
- The CAO was pushing tax sale, with some urgency to sell these properties.
- We did what we were advised to do. We were blindly relying on the CAO's guidance."

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Former councillor, Evan Genung stated that the CAO advised council of a 'maximum allowable discount' for parcels offered for sale at the auction to make the sale more attractive.

Former CAO, Tim Melnyk was informed of the SAGE findings and provided the following comments:

- *"I told council that reserve bids needed to be set at market value.*
- *I was told by a councillor that it was council's decision to set the reserve bids.*
- *Council wanted these properties off their books, and it was council's call to set low reserve bids.*
- *After the auction, offers went to council for properties that had not sold.*
- *For advertising, we tried to be as compliant as possible. We advertised in the Alberta Gazette at the proper time and sent notifications out."*

### **SAGE recommendations regarding tax sale:**

1. That all 2023 tax sale proceeds be properly applied to the property tax arrears owing for each respective tax account; And that any surplus tax sale proceeds be maintained in a separate account for sale proceeds as per the MGA s. 427 and be distributed in accordance with s. 428.
2. That village council contract qualified expertise to conduct a detailed review of the Village of Andrew 2023 tax recovery process; And that following the detailed review council directs administration to inform the affected previous property owners that their property was sold below market value in a public auction.
3. That village council seek independent legal advice to provide options to compensate property owners who were negatively impacted by the irregularities in the Village of Andrew 2023 tax sale process.

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4. That village council contract qualified expertise and to provide guidance to village officials for the 2024 tax recovery process to ensure that it fully complies with the MGA requirements.

### **6.2.4 2022 Tax Sale**

Records show that a November 23, 2022 tax sale was held for the Village of Andrew. A September 30, 2022 Alberta Gazette advertisement shows nine parcels to be offered for sale by public auction. The taxes were paid or tax payment agreements were put in place for seven of these properties. Outstanding tax balances remained on two properties. These two were presented for public auction though did not sell on November 23, 2022. Village officials present stated that no bids were received on these parcels.

Current village staff have reviewed this past tax sale file. They explained that neither property should have been in the tax auction. One property had three caveats registered against it and the other property was seized by Revenue Canada.

Village officials further described the November 23, 2022 tax sale process where former councillor Evan Genung served as auctioneer. Mr. Genung informed the municipal inspector that he was fairly new to village council at that time. He was contacted by Mayor Merwin Haight on the morning of the tax sale date and was asked to attend the tax sale and serve as the auctioneer. Mr. Genung stated that:

*"Merwin called me and said you have to do this. You're the only one who's available. I told him that I have no experience as an auctioneer, or any legalities and procedural challenges of a tax sale. The mayor was not going to take no for an answer, so I 'took one for the team' and said okay. Other council members did show up to observe the tax sale. No properties sold that day."*

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**SAGE finds that** village council members acted in an irregular manner by directing and leading the November 23, 2022 tax sale proceedings.

Mayor Merwin Haight was informed of this finding and that former councillor Evan Genung referenced him during his procedural fairness response. Mayor Haight provided the following response details to the municipal inspector:

### **"November 2022 Tax Sale:**

#### ***History:***

*The tax sale had been discussed with the Interim CAO, and he explained that another municipality had conducted all its Tax Sale or Auctions with a Council member acting as the auctioneer.*

*This recommendation was accepted by the Village of Andrew Council to save money vs hiring an Auction Company to come and conduct the tax sale as it was only two properties.*

*Due to personal reasons or work schedules Councillor Tammy Pickett and Councillor Benny Dubitz, and Councillor Barry Goertz were not committed to be an auctioneer.*

*With myself as being the only Councillor with signing authority for the Village of Andrew, being present It was my understanding that, I could not be both the auctioneer and the (Seller) signing official for the Village of Andrew in this event.*

*This was discussed with council members and all council members were aware of the upcoming tax sale.*

*With the by-election and changing of Council members, Evan Genung may not have been aware of all the prior discussions.*

*Yes, I did call Evan and explained the situation, and requested his assistance with the tax sale. I did inform him that he was the last one to be contacted*

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*and asked to be auctioneer. And yes, he expressed his lack of experience as an auctioneer. I did inform him that the interim CAO and I would be present for the auction. The ICAO would have the property packages ready and there was a chance that the auction may not happen as the property owners could make payments arrangements or pay the taxes in full prior to the tax sale. He was reluctant at first to do this task but did not refuse to do it under the circumstances.*

*I also explained that I too had no experience with tax sales, and this was the direction we were given by our Interim CAO, based on his experience with another municipality.*

*It is my understanding that there is no provision in the MGA that requires the village to have an outside auctioneer or company conduct tax sales. Also, in the absence of a by-law or policy this was may have been irregular but not improper.*

*In closing I do not recall any other councillor being present for that tax auction.”*

## **6.2.5 Council Involvement in Operations**

The 2022 tax sale procedures provide an example where council members acted outside of their legislative, policy role and ventured into operational matters. This is contrary to the MGA s. 201(2) which states:

***Council's principal role in municipal organization***

*201(1) A council is responsible for*

*(a) developing and evaluating the policies and programs of the municipality;*

*(c) carrying out the powers, duties and functions expressly given to it under this or any other enactment.*

*(2) A council must not exercise a power or function or perform a duty that is by this or another enactment or bylaw specifically assigned to the chief administrative officer or a designated officer.*

Additional examples were noted where certain council members performed duties in an operational capacity, such as repairing bleachers, hanging flower baskets, assisting with grant applications, and meeting directly with contractors regarding the Andrew School building. Limited staff capacity, council member availability, and a lack of role clarity contributed to council member's overreach into village operations with what appeared to be an 'all hands on deck' service delivery approach.

**SAGE finds that** village council members acted in an irregular manner, contrary to the MGA s. 201(2), when they performed administrative and operational duties.

## **7 FINANCE & ADMINISTRATION**

The SAGE municipal inspection team includes members with municipal financial expertise. SAGE reviewed the Village of Andrew financial records, policies, procedures, accounts, and grant reporting.

### **7.1 Overall Financial Position**

Financial records show that the Village of Andrew is in reasonably good financial shape. The [2021 audited financial statements](#) are the most recent statements available, and show the following details:

1. \$1,278,159 total cash, including reserve and deferred revenue.
  - \$409,260 deferred revenue for grants received.
2. \$27,169 long term investments
3. \$0.00 total debt
4. \$160,517 taxes receivable
5. \$6,863,458 total accumulated surplus
  - \$5,580,357 equity in tangible capital assets included.
6. \$25,577 total council salaries
7. \$82,976 total CAO salary and benefits

The Village of Andrew relies heavily on grant funding. There was a deficiency of **\$133,889** before government transfers for capital. This is a variance of \$207,889 from the budgeted operating surplus of \$74,000. The total excess of revenues over expenses was \$116,824 for 2021.

## **Municipal Inspection Report Village of Andrew, Alberta**

In 2023 village council approved a \$1,789,975 budget and intended to raise \$470,764 through general municipal taxation as shown in this excerpt from the 2023-005 tax rate bylaw:

*WHEREAS The estimated municipal revenues and transfers set out in the budget for the Village of Andrew for 2022-23 total \$1,319,211.05; and*

*WHEREAS The estimated municipal expenses and transfers from all sources other than taxation is estimated at \$1,789,974.79 and the balance of \$470,763.74 is to be raised by general municipal taxation.*

### **7.2 Financial Reporting to Council**

The MGA s. 268.1 requires the municipality to collect and deposit revenues, keep accurate financial records and that actual revenues and expenditures are compared to budget and reported to council as often as council directs.

Financial reports to council should show sufficient departmental activity to provide enough information to understand the financial results of municipal operations. Council members should receive training on how to read and interpret financial statements at the beginning of each term.

Records show that regular financial reporting to council did not occur in 2023. Except for budget discussions and signing cheques village council was not informed of the organization's financial position.

Regular financial reports were provided to council in the past, such as shown in this excerpt from the September 22, 2021 regular council meeting:

***ADMIN REPORT: Res2021090055***

*Mayor Leppek moved to accept the financial report as information. Carried.*

## **7.3 Financial Audit**

The MGA requires financial reporting to the Minister and to the public by May 1 of each year:

### ***Annual financial statements***

*276(1) Each municipality must prepare annual financial statements of the municipality for the immediately preceding year in accordance with*

*(a) Canadian generally accepted accounting principles for municipal governments, which are the standards approved by the Public Sector Accounting Board included in the CPA Canada Public Sector Accounting Handbook, and*

*(b) any modification of the principles or any supplementary accounting standards or principles established by the Minister by regulation.*

*(2) The municipality's financial statements must include*

*(a) the municipality's debt limit, and*

*(b) the amount of the municipality's debt as defined in the regulations under section 271.*

*(3) Each municipality must make its financial statements, or a summary of them, and the auditor's report of the financial statements available to the public in the manner the council considers appropriate by May 1 of the year following the year for which the financial statements have been prepared.*

### ***Returns and reports to Minister***

*278 Each municipality must submit*

*(a) its financial information return and the auditor's report on the financial information return, and*

*(b) its financial statements and the auditor's report on the financial statements to the Minister by May 1 of the year following the year for which the financial information return and statements have been prepared.*

The Village of Andrew 2022 yearend financial reporting and audit were not completed at the date of this report writing. Subsequently, no 2023 preliminary

## **Municipal Inspection Report Village of Andrew, Alberta**

audit work was scheduled to begin preparing the 2023 audited financial statements.

The Village of Andrew had a longstanding 20-year relationship with an accounting firm to provide financial audit services. Records show a 2021 expense totaling \$13,800 for audit services, which is relatively consistent with the prior year expense.

Records show that the 2021 audited financial statement was approved by village council on April 27, 2022, as follows:

### ***DELEGATION***

*JMD Group LLP, Chartered Professional Accountants presented the Audited Financial Statement.*

*Res2022040004 Mayor Goertz moved to accept the Audited Financial Statement as presented. CARRIED*

The auditor's opinion on the Village of Andrew financial statements and financial position reads:

*"The consolidated statements present fairly, in all material respects the consolidated financial position of the municipality as at December 31, 2021, and the consolidated results of its operations and consolidated cash flows for the year then ended, in accordance with Canadian public sector accounting standards (PSAS)."*

Preparations for the 2022 financial audit were underway in early 2023. Office staff reached out to the auditor for assistance in March 2023. Staff had reconciled the bank accounts to November 30, 2022, and were struggling to balance the December 31, 2022 bank reconciliation. The auditor advised to flag the unreconciled balance in an obvious account so they could review the details when they were on site to complete the 2022 audit. This would enable staff to begin the 2023 bank reconciliations.

## **Municipal Inspection Report Village of Andrew, Alberta**

According to the former auditor, the former village CAO, Tim Melnyk contacted her and challenged the credibility of the village's prior audited statements. He said that the bank hadn't reconciled for three years and that the audited statements were garbage. The auditor provided the CAO with the December 31, 2021 bank reconciliation showing that it was balanced, and the general ledger. This showed that the audited balance matched the bank reconciliation.

Records from local media in March 2023 show that the village CAO made public statements of his concerns with the village financial reporting, including an inference of "doctored" paperwork.

The former CAO's alleged public comments fractured the professional-client relationship. This auditor resigned on March 16, 2023, citing unverified and unprofessional accusations by former CAO Melnyk.

**SAGE finds that** the former CAO acted in an improper manner in March 2023. His comments related to previous audited statements are completely unfounded and unprofessional.

Former CAO, Tim Melnyk was informed of this SAGE finding and provided the following comments:

- *"I only talked to the auditor one time. I presented my concerns and evidence to council regarding prior year reporting. When council asked questions during a portion of the meeting open to the public, I felt obliged to answer them.*
- *I do not recall saying "doctored paperwork" and never accused anyone of doctoring anything."*

In April 2023 a new auditing firm was contracted to conduct the 2022 yearend audit and prepare the financial statements. At the date of this report writing, the auditor is waiting to receive the yearend working papers and bank reconciliations so they can begin the audit process. This auditing firm required the village to provide their accounting records by October 15, 2023 and provided the following timeframe details:

## **Municipal Inspection Report Village of Andrew, Alberta**

- *Mr. Melnyk first made contact mid-March 2023*
- *Council approved services April 2023*
- *Engagement letter signed May 2023*
- There was little or no communication from basically May 2023 until late June.

On August 31, 2023, village council approved a contract for accounting services to assist staff in preparing for the 2022 yearend audit.

**SAGE finds that** village officials acted in an irregular manner by failing to provide 2022 audited financial reporting to the public and to the Minister by May 1, 2023 as required by the MGA s. 276 and 278.

**SAGE recommendation:** That village administration establish monthly and yearend financial procedures to ensure timely reconciliations of bank accounts and subledgers.

**SAGE recommendation:** That village council ensure that adequate resources are budgeted for contracted financial expertise and staff training in 2024.

### **7.4 Municipal Software**

Records show that the Village of Andrew uses a reputable municipal software system which is common and widely used in several Alberta municipalities. Various modules for subledgers are used in reconciling the village's overall financial position. A 3-year subscription contract is in place with this software provider (January 1, 2023 – December 31, 2025) for a Muniware license at a cost of \$8,464.68 per year.

Current office staff reported that they were not properly trained to use the software, despite software training being available. Staff described frustration when using some software components and made frequent calls to customer support.

Staff reported that the CAO directed them not to work on 2023 bank reconciliations until the 2022 financial audit was completed.

## **Municipal Inspection Report Village of Andrew, Alberta**

The [February 8, 2023](#) regular council meeting minutes show council approval to purchase an additional, new municipal software system:

### **9.3 Munisoft install costs**

*Res#202302012 Motion made by Benny Dubitz to borrow the \$17,000.00 for the MuniSoft software install from the reserves at replacement plus the interest rate. Carried*

In the first half of 2023 the CAO was working on what was described as a “GL (General Ledger) audit” in an effort to correct various account descriptions. This was reported to village council at the March 8, 2023 council meeting:

### **10.3 The books and balancing progress**

*There was a discussion about the progress of the GL audit the CAO has been doing.*

It did not appear logical for village administration to initiate a municipal software transition and change internal general ledger (GL) account details when the financial records were not in a reconciled state. There was an effort to migrate records to the new software system in May 2023 around the time that tax notices were to be issued. At this time, SAGE requested that all financial records from the existing software system remain intact and available during the municipal inspection.

**SAGE finds that** the village CAO acted in an improper manner by editing financial GL accounts and initiating a municipal software transition at a time when the municipal records were not reconciled or audited.

**SAGE finds that** village officials acted in an improvident manner in managing municipal software contracts, where subscription services were duplicated.

Former CAO, Tim Melnyk was informed of the SAGE findings and provided the following comments:

- *"Changes to the GLs were needed so there were numbers to prepare the budget with.*

## **Municipal Inspection Report Village of Andrew, Alberta**

- *I did not intend to duplicate the cost for the municipal software services. I told staff not to make the payment for the outgoing software system.”*

### **7.5 Bank Reconciliations**

The SAGE municipal inspection team provided a detailed review of the village bank accounts and reconciliations.

#### **7.5.1 Bank accounts**

The Village of Andrew has 12 bank accounts. Six were held at ATB Financial and six were at Servus Credit Union. Both are local banks in town. Some accounts were primarily inactive, only earning interest. It is unknown why all these bank accounts exist. A small community like the Village of Andrew would typically have one primary current account, some investment accounts, and an account for surplus tax sale proceeds.

Bank reconciliations were performed only on two of the 12 bank accounts:

- ATB Financial                    XXXXXX24
- Servus Credit Union        XXXXXX49

No bank reconciliation report was performed by village administration on the remaining 10 bank accounts.

#### **7.5.2 Bank Reconciliation Reports**

The auditor provided the December 2020 and December 2021 bank reconciliation for these two bank accounts. The reconciliation shows a book balance compared to a bank balance adding outstanding deposits and subtracting outstanding cheques, with bank confirmation reports attached. The reconciliation report combined the two accounts into one figure.

## **Municipal Inspection Report Village of Andrew, Alberta**

The other bank accounts appear to be reported on different GL's. The auditor recommended adjusting journal entries to record the activity for the year-end statements. The auditor also provided a bank lead sheet to show how the cash balance on the financial statements were derived. The cash includes a small amount of petty cash.

Current staff appeared to be unaware of how these other bank accounts are monitored and reported.

The initial 2021 bank reconciliation reports provided by staff were incomplete. The report shows outages, and there are no outstanding deposits or cheques accounted for. The 2021 December reconciliation report is different from the one provided by the auditor. It appears that the staff only have an electronic version, as a hardcopy version was not in the bank reconciliation binder. The completed 2021 bank reconciliations were provided months later during the municipal inspection when the finance administrator found them.

The 2022 bank reconciliation reports appeared to be completed. There are no outages. Staff and the auditor explained that the 2021 adjusting journal entries were not posted until November 2022. For this reason, the bank reconciliations were not balanced until these entries were posted.

For 2023, the former CAO directed one of the bank accounts to be used for utility deposits. He also directed to the staff not to do any bank reconciliations for 2023 as he believed the 2022 figures to be out of balance. At the date of this report writing, the 2023 bank reconciliations were not performed.

**SAGE finds that** the former CAO acted in an improvident manner by directing finance staff not to complete the 2023 bank reconciliations.

### **7.5.3 Bank Reconciliation Policy and Procedure**

There does not seem to be a policy or procedure regarding bank reconciliations. The bank reconciliation reports were not signed off by the preparer or the reviewer, and there is no completion date on the report, other than the date the report is printed. There is no policy to dictate the frequency and due dates to perform the reconciliation. There is no written procedure on how to perform the bank reconciliation.

There appears to be a loss of records and knowledge during the transition of staff. The current staff could not explain the purpose of the numerous bank accounts and they located different versions of the 2020 and 2021 bank reconciliation reports.

The Village of Andrew needs strong financial policy and procedures to reduce risks and maintain organizational knowledge. Bank reconciliations are a part of internal controls to identify risks and to help management monitor the organization's cash position.

#### **SAGE recommendations regarding finance:**

1. Perform reconciliations on all bank accounts.
  - Although only two main accounts are used, all accounts should be reconciled to ensure all cash is monitored.
  - Ideally, each bank account maps to one GL account. This provides for easier tracking and transactions and outages are more easily identified.
  - It would be useful to review if the inactive accounts are still necessary. If they are not serving a purpose, the account can be closed.
2. Perform reconciliations monthly.
  - Timely reconciliations will give management the opportunity to address errors and other irregularities sooner, reducing risk. The monthly financial statements are more reliable if any adjustments required on the cash accounts are recorded through the process of the reconciliation. Management will be able to better manage cash flow.
3. Reconciliations should be fully documented.

## **Municipal Inspection Report Village of Andrew, Alberta**

- Source documents (ex. the bank statements), and a schedule comparing the book and bank balance should be attached to the reconciliation. For example, a report from the municipal software showing the book balance and the outstanding deposits and cheques.
4. Record adjustments promptly.
    - Transactions should be posted when they occur, not just when the bank statement is received. For example, payments made and received are posted against the accounts payable and receivable account, and then later matched to the bank statement.
    - Adjusting entries, correcting entries should be posted promptly. Prioritize research to find outages.
  5. Record the date and sign the reconciliations. File in a secure place and make electronic backup copies.
    - The reconciliations should be signed by the preparer and reviewing and dated by each person. This record should be stored in a systemic filing system that is accessible as staff transition between roles. The dates of signature will provide support that reconciliations are performed in a timely manner.
  6. Ensure segregation of duties. Staff performing bank reconciliations should not have access to bank deposits, accounts payable, or payroll, and should not have authority to be a signer on a bank account.
    - Segregation of duties ensures that the person checking the bank activity is not also the one performing the bank activity. This may be a challenge with limited staff in Andrew.
  7. Document policies and procedures and update as needed.
    - Documenting financial policies and procedures ensure the controls are formally in place and preserves organizational knowledge.

### **7.6 Grant reporting**

The village accessed capital and operating grants that were available to Alberta municipalities on a per capita basis. As of the end of 2021 the village reported \$409,260 in deferred revenue for grants received.

# Municipal Inspection Report Village of Andrew, Alberta

On June 13, 2023 SAGE contacted the village CAO and requested copies of "all Village of Andrew grant applications and reporting since 2017." The CAO informed the municipal inspector that they were having trouble logging in to access the MA Connect reporting system to access grant information.

On June 20, 2023 the CAO provided the following grant reporting records for the Municipal Sustainability Initiative (MSI) capital program and Canada Community-Building Fund (CCBF). Some historical grant records dating back to 2007 were also provided. Administration did not provide village records for any other grant programs. It was not clear how capital projects were determined, or prioritized. A new 2023 asphalt path project was completed through a park, and various complaints of tripping hazards on Main Street sidewalks were noted. There were several examples of deteriorating village infrastructure.

Recent grant information provided is summarized below.

## 7.6.1 Canada Community-Building Fund (CCBF)

July 2021 application: 52nd Street - street repair and overlay; Cost: \$200,000

## 7.6.2 MSI Capital

The 2022 Statement of Funding and Expenditures (SFE) was submitted on May 8, 2023 showing \$132,834 available funding for future years:

 Municipal Sustainability Initiative (MSI)  
2022 Capital Program

Statement of Funding and Expenditures (SFE)

Municipality		Office Use Only	
Village of Andrew		Municipal Code 0008	SFE# 5711

- Due Date - The due date for submitting the 2022 SFE to Alberta Municipal Affairs is May 1, 2023.      - 2023 Allocation - The 2023 Funding Allocation will not be released until the 2021 SFE is certified, the 2022 SFE is received, sufficient 2023 Capital Project Applications submitted, and the 2017 allocation has been reported as fully expended.

MSI Capital Funding Available	
Total Funding Carry-Forward from Previous Year	\$50,523 (A)
Funding Allocation in Reporting Year	\$82,311 (B)
Credit Items (including Income Earned) in Reporting Year	\$0 (C)
<b>Total Funding Available in Reporting Year (A+B+C)</b>	<b>\$132,834 (D)</b>

Project Costs and MSI Capital Funding Applied										
(1) Project Application - GAP No.	(2) Project Name	(3) Status	(4) Remaining MSI Qualifying Project Costs from Column 11 of Previous Year's SFE	(5) Total Actual Reporting Year Project Costs	(6) Non-Qualifying Costs Included in Reporting Year Project Costs	(7) Portion of Reporting Year Qualifying Project Costs to be Funded from Other Grant Programs	(8) Portion of Reporting Year Qualifying Project Costs to be Funded from Municipal Sources	(9) Reporting Year Qualifying Project Costs to be Funded from MSI [5-(6+7+8)]	(10) MSI Funding Applied to Previous (4) and to Reporting Year (9) Qualifying Project Costs	(11) Remaining Qualifying Project Costs to be Funded from MSI Allocations (4+9-10)
No projects reported			\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>								<b>\$0</b>	<b>\$0 (E)</b>	<b>\$0</b>
<b>Total Funding Available for Future Years (D-E)</b>										<b>\$132,834 (F)</b>

Are all Capital projects with 2022 MSI expenditures attached to the SFE?  Yes  No

# Municipal Inspection Report

## Village of Andrew, Alberta

The 2021 SFE was submitted on August 30, 2022, showing \$50,523 available funding for future years:

 **Municipal Sustainability Initiative (MSI) 2021 Capital Program**  
Statement of Funding and Expenditures (SFE)

<b>Municipality</b>		<b>Office Use Only</b>	
Village of Andrew		Municipal Code 0008	SFE# 5367

**Due Date** - The due date for submitting the 2021 SFE to Alberta Municipal Affairs is May 1, 2022. **2022 Allocation** - The 2022 Funding Allocation will not be released until the 2020 SFE is certified, the 2021 SFE is received, sufficient 2022 Capital Project Applications submitted, and the 2016 allocation has been reported as fully expended.

<b>MSI Capital Funding Available</b>	
Total Funding Carry-Forward from Previous Year	\$56,997 (A)
Funding Allocation in Reporting Year	\$202,976 (B)
Credit Items (including Income Earned) in Reporting Year	\$0 (C)
<b>Total Funding Available in Reporting Year (A+B+C)</b>	<b>\$259,973 (D)</b>

<b>Project Costs and MSI Capital Funding Applied</b>										
(1) Project Application - CAP No.	(2) Project Name	(3) Status	(4) Remaining MSI Qualifying Project Costs from Column 11 of Previous Year's SFE	(5) Total Actual Reporting Year Project Costs	(6) Non-Qualifying Costs Included in Reporting Year Project Costs	(7) Portion of Reporting Year Qualifying Project Costs to be Funded from Other Grant Programs	(8) Portion of Reporting Year Qualifying Project Costs to be Funded from Municipal Sources	(9) Reporting Year Qualifying Project Costs to be Funded from MSI [5-(6+7+8)]	(10) MSI Funding Applied to Previous (4) and to Reporting Year (9) Qualifying Project Costs	(11) Remaining Qualifying Project Costs to be Funded from MSI Allocations (4+9-10)
CAP-11420	53 Street and 53 Avenue Reconstruction	Completed/Fully Funded	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CAP-14069	Wastewater Manhole Raising	Completed/Fully Funded	\$0	\$106,200	\$0	\$0	\$0	\$106,200	\$106,200	\$0
CAP-14070	Hydrant Replacement Program	Withdrawn	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
CAP-14071	52 Avenue Drainage Project	Completed/Fully Funded	\$0	\$103,250	\$0	\$0	\$0	\$103,250	\$103,250	\$0
<b>Total</b>								<b>\$209,450</b>	<b>\$209,450 (E)</b>	<b>\$0</b>

**Total Funding Available for Future Years (D-E)** **\$50,523 (F)**

Are all Capital projects with 2021 MSI expenditures attached to the SFE?  Yes  No

The 2020 SFE was submitted on July 26, 2021, showing \$56,997 available funding for future years:

 **Municipal Sustainability Initiative (MSI) 2020 Capital Program**  
Statement of Funding and Expenditures (SFE)

<b>Municipality</b>		<b>Office Use Only</b>	
Village of Andrew		Municipal Code 0008	SFE# 5020

**Due Date** - The due date for submitting the 2020 SFE to Alberta Municipal Affairs is May 1, 2021. **2021 Allocation** - The 2021 Funding Allocation will not be released until the 2019 SFE is certified, the 2020 SFE is received, sufficient 2021 Capital Project Applications submitted, and the 2015 allocation has been reported as fully expended.

<b>MSI Capital Funding Available</b>	
Total Funding Carry-Forward from Previous Year	\$138,590 (A)
Funding Allocation in Reporting Year	\$182,832 (B)
Credit Items (including Income Earned) in Reporting Year	\$0 (C)
<b>Total Funding Available in Reporting Year (A+B+C)</b>	<b>\$321,422 (D)</b>

<b>Project Costs and MSI Capital Funding Applied</b>										
(1) Project Application - CAP No.	(2) Project Name	(3) Status	(4) Remaining MSI Qualifying Project Costs from Column 11 of Previous Year's SFE	(5) Total Actual Reporting Year Project Costs	(6) Non-Qualifying Costs Included in Reporting Year Project Costs	(7) Portion of Reporting Year Qualifying Project Costs to be Funded from Other Grant Programs	(8) Portion of Reporting Year Qualifying Project Costs to be Funded from Municipal Sources	(9) Reporting Year Qualifying Project Costs to be Funded from MSI [5-(6+7+8)]	(10) MSI Funding Applied to Previous (4) and to Reporting Year (9) Qualifying Project Costs	(11) Remaining Qualifying Project Costs to be Funded from MSI Allocations (4+9-10)
CAP-11420	53 Street and 53 Avenue Reconstruction	In Progress	\$0	\$314,425	\$0	\$0	\$50,000	\$264,425	\$264,425	\$0
<b>Total</b>								<b>\$264,425</b>	<b>\$264,425 (E)</b>	<b>\$0</b>

**Total Funding Available for Future Years (D-E)** **\$56,997 (F)**

Are all Capital projects with 2020 MSI expenditures attached to the SFE?  Yes  No

## Municipal Inspection Report Village of Andrew, Alberta

The grant reporting and records made available to the municipal inspector did not reconcile with the \$409,260 in deferred grant funding reported in the 2021 audited financial statement. Records from additional grant funding programs were expected, as referenced in the excerpt from the 2021 audited financial statement below:

### 6. Deferred Revenue

	<u>2021</u>	<u>2020</u>
Federal Gas Tax Fund	\$ 350,000	\$ 250,000
MSI Capital	50,523	56,997
Municipal Operating Support Transfer	-	4,928
Municipal Stimulus Program	8,737	20,000
	<u>\$ 409,260</u>	<u>\$ 331,925</u>

In the current year, funding in the amount of \$197,675 was received and an additional \$202,976 was allocated from various federal and provincial government programs and local governments. The use of these funds is restricted to eligible operating and capital projects as approved under the funding agreements. Unexpended funds of \$358,737 are supported by cash in the bank account, the remaining deferred revenue has not been received and is supported by receivables from other governments.

**SAGE finds that** the village CAO acted in an improvident manner in 2023 by failing to produce clear records and reporting documentation, for a full accounting of grant funding management.

Former CAO, Tim Melnyk was informed of this SAGE finding and provided the following comments:

*"I struggled to access the municipal grant reporting system. I thought that all prior year grant reporting was complete. I spent hours on the phone receiving technical support and was finally able to access the MAConnect grant reporting system shortly before leaving the CAO position. I went digging for things and I walked into a rat's nest."*

**Municipal Inspection Report  
Village of Andrew, Alberta**



*Photo of Main Street Andrew 2023*



*Photo of the Andrew Community Centre 2023*

## **8 FIRE SERVICES**

### **8.1 Regional Agreement**

Fire services in the Village of Andrew are provided by Lamont County, the surrounding rural neighbour. A regional emergency services agreement is in place to permit Lamont County to administer, manage, and operate a fire department to serve the Village of Andrew and Lamont County. This 10-year agreement is duly signed by Lamont County and Village of Andrew officials, and is dated July 13, 2021 extending to December 31, 2031.

This detailed agreement defines service provision for both Lamont County and the Village of Andrew. Key terms of the agreement show that the Andrew Fire Station will remain the sole property of the Village of Andrew and the village provides the county with access and use of the fire station, as a tenant. The village pays for maintenance of the fire station and provides unrestricted use of municipal water for training and emergency response – unless a fire ban is in effect.

All firefighting materials and apparatus are transferred to the county without charge. The county is responsible to manage the fire station activities, emergency response services, personnel recruitment and training, leadership appointments, all financial aspects of the fire service including procurement, and annual reporting to the village.

A Regional Fire Services Bylaw No. 847.22 is in place, as passed by Lamont County Council on April 26, 2022. The preamble reads:

*...A Bylaw of Lamont County, in the Province of Alberta, to establish and operate a regional fire service, authorize the prevention and control of fires, and authorize the recovery of related fees, expenses, and charges.*

## Municipal Inspection Report Village of Andrew, Alberta

The Village of Andrew is within the Andrew Fire District, which is one of five fire districts operated and managed by Lamont County. A District Deputy Fire Chief, M. Stewart manages the day-to-day response for the Andrew Fire District, and he reports to the Lamont County Regional Fire Chief.



Nine volunteer members currently serve the Andrew Fire District and recruitment efforts remain ongoing. These members have a modest office and training space within the Andrew fire hall which is partly shown in the photo. The fire district is co-located within the village public works building.

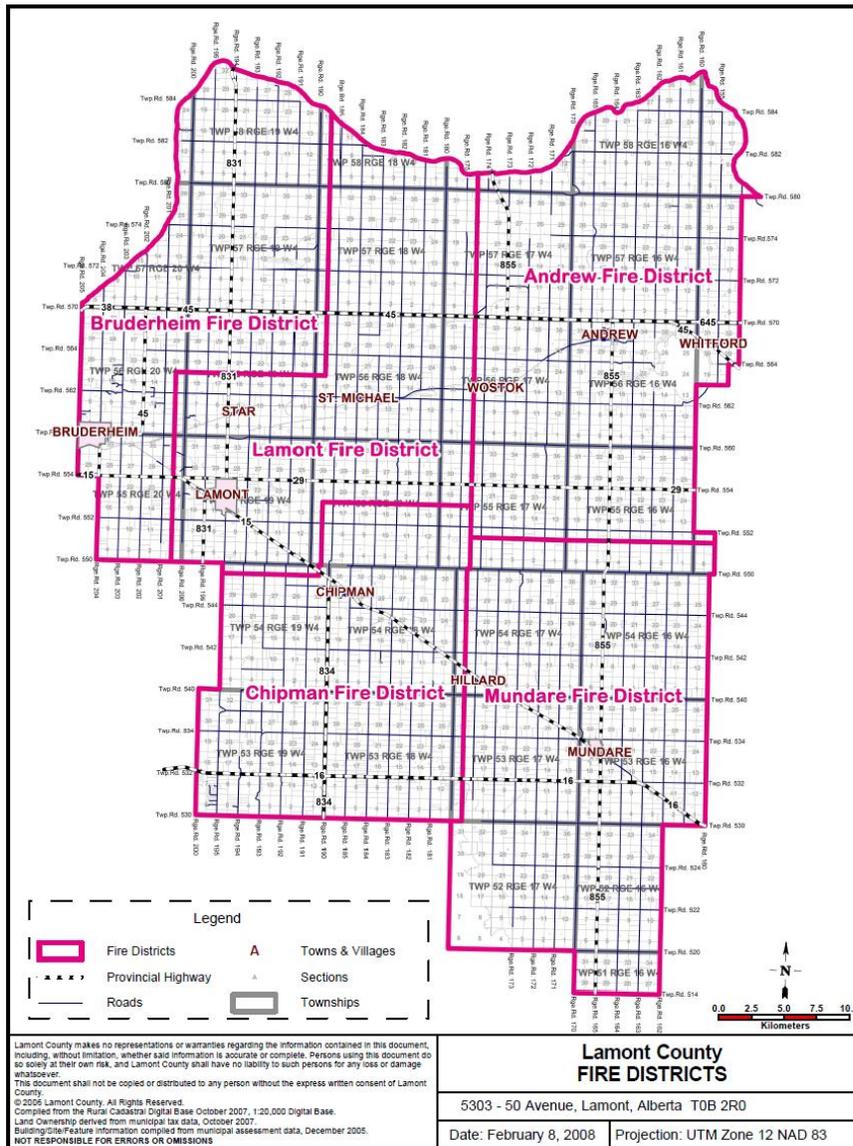
The District Deputy Fire Chief was connected to the community and maintained a strong relationship with village council. Department members were engaged in the community and participated regularly in local events and fire prevention efforts. The Andrew Fire District maintains a local Facebook page:

<https://www.facebook.com/people/Andrew-Fire/100069578791681/>

# Municipal Inspection Report

## Village of Andrew, Alberta

A 2008 Lamont County fire district map is provided:



Shared fire services were in place in various form since 2015. Prior to that, the Village of Andrew managed its own fire department. One of the last Village Fire Chief's was Barry Goertz, who is currently serving on village council.

Village officials confirmed that council did not reappoint Barry Goertz as fire chief in December 2014. He had served the fire department for eight years. A new fire chief was not immediately appointed. Former village officials described a hostile delegation of fire department volunteers, who "all handed in their letters of resignation."

## **Municipal Inspection Report Village of Andrew, Alberta**

The village received media attention in early 2015 when the Andrew fire department volunteers resigned en masse:

["https://www.cbc.ca/news/canada/edmonton/village-of-andrew-left-without-fire-department-after-volunteers-resign-1.2939399"](https://www.cbc.ca/news/canada/edmonton/village-of-andrew-left-without-fire-department-after-volunteers-resign-1.2939399)

Neighbouring communities provided fire service for the Village of Andrew. Specifically, the Town of Mundare, and Town of Smoky Lake. Village officials also reached out to Lamont County and described their discussions led to a strong regional service: *"We hammered out an agreement and that's how the regional fire department started."*

The historical Andrew Fire Brigade was described as a local fundraising organization, which at one point had raised over \$90,000. Members of the village fire department served on the brigade board, and the organization maintained its own bank account. The Andrew Fire Brigade is no longer active.

Any previous firefighting equipment purchased for the department through donations is now owned by Lamont County, according to the terms of the regional fire service agreement. The regional fire service was described to have strong procurement policies and capital planning practices. There is a centralized process requiring formal budget requests for tools and equipment as well as the training to use these tools and equipment safely. Current procurement practices were reported to be connected to a sustainable, supported, long term plan with equipment and apparatus managed at the right time and location to serve the emergency response needs of the region.

Financial records show that fire expenses for the Village of Andrew totalled \$14,794.50 in 2021 and \$27,839.73 (unaudited) in 2022. The village's 2023 budget included \$110,000 for a new air exchange system for the building, anticipated to be funded through a provincial MSI grant.

- *SAGE Note:* On November 6, 2023 Councillor Merwin Haight clarified his understanding that a prior council committed to the air exchange project along with the possible MSI grant funding allocation.

## Municipal Inspection Report Village of Andrew, Alberta

Shoulder patches from the Lamont County Emergency Services and respective fire districts and communities are shown in the photo (taken by SAGE in 2023).



### 8.2 Other Regional Services

The Village of Andrew maintains strong relationships with regional partners, particularly with Lamont County. Some other collaboration examples include:

- Lamont Regional Emergency Management Partnership Agreement [2021]
- Lamont Regional Emergency Management Advisory Committee
- St. Michael Regional Solid Waste Commission
- Bylaw 2020-04 Intermunicipal Development Plan
- Intermunicipal Collaboration Framework with Lamont County

**SAGE finds that** the regional fire service provided to the Village of Andrew demonstrated good order and management. The community is well-served by this regional service model.

## **9 CONCLUSION**

The governance and viability of the Village of Andrew is at risk due to a multitude of concurrent leadership challenges on the home front. Any one of these situations would be difficult for village leaders to navigate through.

Current challenges include:

1. Council leadership instability with council member resignations and vacancies.
2. Administrative instability with a high CAO turnover rate. Vacancies in public works positions.
3. The village office location is uncertain as it is co-located in the now-closed Andrew School building.
4. Taxation and utility billings errors need correction or adjustment.
5. Village bylaws and policies need review, and many need updating.
6. Learn to use the council code of conduct bylaw effectively, without weaponization among elected officials.
7. Self-sabotage occurred where some village officials embellishing rumours of vandalism or failed to properly report safety concerns in the community.
8. Pecuniary interest and candidate eligibility concerns may lead to disqualification of certain council members.
9. The value for taxes for the level of services provided is a heightened concern for residents and business owners. The current service delivery model deserves to be reevaluated to ensure that municipal services are provided in an efficient, effective, and safe manner.

On a positive note, there is strength in numbers. Village services provided through a regional service model have stood strong over the test of time. Exploring additional options for a regional service delivery approach could offer a viable path forward for this beautiful, deep-rooted, central Alberta village.

## **10 APPENDICES**

### **10.1 SAGE Findings**

<b>#</b>	<b>Description</b>	<b>Page</b>
<b>F1</b>	<b>SAGE finds that</b> village council acted in an irregular manner by operating as a five-member council without passing a related bylaw to increase the number of village councillors from three, in accordance with the MGA s. 143(2).	17
<b>F2</b>	<b>SAGE finds that</b> village council acted in an irregular manner by conducting a portion of the June 28, 2023 regular council meeting without a quorum present, as required by the MGA s. 167.	19
<b>F3</b>	<b>SAGE finds that</b> village officials acted in an irregular manner, contrary to the LAEA s.26, related to advertising the July 24, 2023 notice of nomination day. Specifically, the Village of Andrew CAO, acting in the capacity of returning officer, failed to ensure that these advertising requirements were fulfilled.	24
<b>F4</b>	<b>SAGE finds that</b> village officials acted in an irregular manner, contrary to the LAEA s. 13(2.1) by not appointing a substitute returning officer for the August 21, 2023 byelection.	26
<b>F5</b>	<b>SAGE finds that</b> Merwin Haight was not eligible to be nominated as a candidate in the October 18, 2021 election in accordance with the LAEA s. 22 because he had taxes in default exceeding \$50.00 owing to the Village of Andrew as of the September 20, 2021 nomination day.	30
<b>F6</b>	<b>SAGE finds that</b> Andrew Village Council acted in an improper manner, outside their authority, and relied on false statements when attempting to uphold the 2021 candidate eligibility of their council colleague, Merwin Haight.	36
<b>F7</b>	<b>SAGE finds that</b> village officials acted in an irregular manner in managing the recreation operator employment contract in 2022.	38
<b>F8</b>	<b>SAGE finds that</b> village council acted in an irregular manner regarding the July 12, 2023 disposal of assets for a shed. This offer to purchase an unadvertised village asset was random, rushed through, lacked consultation with community groups that used the building, and the sale was disconnected from any capital asset management and disposal strategy.	42

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<b>F9</b>	<b>SAGE finds that</b> former Councillor Benny Dubitz acted in an irregular manner at the July 12, 2023 council meeting regarding the sale of a shed to his son. He engaged in council discussion and voting on an apparent pecuniary interest matter, contravening the MGA s. 172.	42
<b>F10</b>	<b>SAGE finds that</b> former Deputy Mayor Tammy Pickett acted in an irregular manner at the August 9, 2023 council meeting by engaging in council discussion when she had an apparent pecuniary interest in the Andrew Mini Golf contract. This contravened the MGA s. 172.	47
<b>F11</b>	<b>SAGE finds that</b> village council acted in an irregular manner at the June 14, 2023 regular council meeting by passing resolutions in closed session and by passing certain motions in an obscure manner, by resolution number only when returning to open session.	54
<b>F12</b>	<b>SAGE finds that</b> Council members Haight, Dubitz, and Pickett acted in an irregular manner by failing to follow the established process when imposing sanctions, and failing to ensure a fair, unbiased process when handling council code of conduct complaints.	57
<b>F13</b>	<b>SAGE finds that</b> village officials acted in an irregular manner by passing Council Procedure Bylaw 2023-001 which is not in compliance with legislation.	70
<b>F14</b>	<b>SAGE finds that</b> village officials acted in an irregular manner on May 24, 2023 by attempting to amend utility rates by council resolution; And acted in an irregular manner by charging new rates on the June and July 2023 utility bills before these rates were established by bylaw.	71
<b>F15</b>	<b>SAGE finds that</b> village officials acted in an irregular manner by failing to develop and evaluate policies for the community, particularly financial and facility access policies.	74
<b>F16</b>	<b>SAGE finds that</b> village officials acted in an irregular manner by failing to provide a record of the May 17, 2023 special council meeting, and for failing to reference the FOIP exceptions to disclosure prior to closing portions of meetings to the public.	78
<b>F17</b>	<b>SAGE finds that</b> village officials acted in an irregular manner by conducting special meetings without providing proper notice to the public, or waiving notice to the public in accordance with the MGA s. 194(4); and for failing to document the minutes for these meetings.	83

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<b>F18</b>	<b>SAGE finds that</b> village officials acted in an improper manner by failing to ensure security of the village office facility and user access accountability.	91
<b>F19</b>	<b>SAGE finds that</b> a former CAO acted in an irregular manner by not advising the council of their legislative responsibility to provide guidance, by bylaw, on the destruction of records, in accordance with the MGA s 214, and for not properly documenting the destruction of records in 2022.	93
<b>F20</b>	<b>SAGE finds that</b> village officials acted in an irregular manner in managing the Records Retention and Disposition Bylaw No. 99-05.	93
<b>F21</b>	<b>SAGE finds that</b> according to all available historical assessment records, there was no evidence of any ill-intended assessment classification change by any past village officials or designated officers regarding tax roll 20076000.	95
<b>F22</b>	<b>SAGE finds that</b> village officials acted in an irregular manner in handling a 2022 assessment complaint, in contravention to the MGA.	99
<b>F23</b>	<b>SAGE finds that</b> a former CAO acted in an improper manner when he discouraged them from filing an assessment complaint in 2022 by implying that their property taxes may increase.	99
<b>F24</b>	<b>SAGE finds that</b> a former CAO acted in an improper manner by using a combative tone when communicating with a taxpayer regarding filed or potential assessment complaints.	99
<b>F25</b>	<b>SAGE finds that</b> certain village councillors acted in an improper manner by approving the 2023 budget which they did not fully understand.	104
<b>F26</b>	<b>SAGE finds that</b> village officials acted in an improvident manner where several inaccurate calculations were made during the 2023 taxation process.	104
<b>F27</b>	<b>SAGE finds that</b> past village officials acted in an irregular manner by imposing a special tax for Main Street snow clearing without passing a special tax bylaw in accordance with the MGA s. 383(1).	104
<b>F28</b>	<b>SAGE finds the</b> explanation regarding the allowance for doubtful accounts from past village administration to be reasonable. The large allowance for doubtful accounts (AFDA) was impacted by extenuating circumstances and brownfield properties.	108
<b>F29</b>	<b>SAGE finds that</b> past administration followed the tax recovery procedures required by legislation in 2021 and prior years. Past officials exercised prudent management in the tax recovery process.	108

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<b>F30</b>	<b>SAGE finds that</b> the village CAO acted in an irregular manner by failing to advise village council in writing of their legislative responsibilities related to the tax recovery process.	116
<b>F31</b>	<b>SAGE finds that</b> village officials acted in an improper manner through the 2023 tax sale public auction. Rather than a clear bidding process starting with a fair reserve bid, the tax sale continued as part of a council meeting and included council deliberations on tax sale bids.	116
<b>F32</b>	<b>SAGE finds that</b> the village CAO acted in an irregular manner by failing to follow MGA tax recovery advertisement and notification requirements.	116
<b>F33</b>	<b>SAGE finds that</b> village officials acted in an improvident manner when they failed to follow legislation to set fair reserve bids as close to market value as possible. Officials did not steward the public interest in a reasonable manner for individuals and properties that were part of the 2023 tax recovery process.	116
<b>F34</b>	<b>SAGE finds that</b> village council members acted in an irregular manner by directing and leading the November 23, 2022 tax sale proceedings.	119
<b>F35</b>	<b>SAGE finds that</b> village council members acted in an irregular manner, contrary to the MGA s. 201(2), when they performed administrative and operational duties.	121
<b>F36</b>	<b>SAGE finds that</b> the former CAO acted in an improper manner in March 2023. His comments related to previous audited statements are completely unfounded and unprofessional.	126
<b>F37</b>	<b>SAGE finds that</b> village officials acted in an irregular manner by failing to provide 2022 audited financial reporting to the public and to the Minister by May 1, 2023 as required by the MGA s. 276 and 278.	127
<b>F38</b>	<b>SAGE finds that</b> the village CAO acted in an improper manner by editing financial GL accounts and initiating a municipal software transition at a time when the municipal records were not reconciled or audited.	128
<b>F39</b>	<b>SAGE finds that</b> village officials acted in an improvident manner in managing municipal software contracts, where subscription services were duplicated.	128
<b>F40</b>	<b>SAGE finds that</b> the former CAO acted in an improvident manner by directing finance staff not to complete the 2023 bank reconciliations.	130

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<b>F41</b>	<b>SAGE finds that</b> the village CAO acted in an improvident manner in 2023 by failing to produce clear records and reporting documentation, for a full accounting of grant funding management.	135
<b>F42</b>	<b>SAGE finds that</b> the regional fire service provided to the Village of Andrew demonstrated good order and management. The community is well-served by this regional service model.	141

## 10.2 SAGE Recommendations

#	Description	Page
R1	<b>SAGE recommendation:</b> That village council pass a bylaw in accordance with the MGA s. 143(2) to authorize the five-member council for the Village of Andrew or locate this historical bylaw record.	17
R2	<b>SAGE recommendation:</b> That officials consider the following sample council resolution wording to comply with the LAEA s. 13: That council appoints _____ as returning officer and _____ as substitute returning officer for the (date) _____ byelection, in accordance with the LAEA s. 13.	27
R3	<b>SAGE recommendation:</b> That village administration establish clear and consistent employment management procedures that comply with employment standards and best practices. This includes maintaining copies of employment contracts, offers of employment, job descriptions, performance evaluations, and any management notes made on employee files.	38
R4	<b>SAGE recommendation:</b> That the June 14, 2023 regular council meeting minutes be corrected to accurately reflect the actions of council at that meeting; And that council rescind any resolutions that may have been made improperly.	54
R5	<b>SAGE recommendations regarding code of conduct bylaw:</b> <ol style="list-style-type: none"> <li>1. To add an educational, informal resolution process as an option to address disputes and complaints.</li> <li>2. To distinguish between informal and formal complaints.</li> <li>3. To include a preliminary review process by council, to determine if a complaint will proceed to further investigation.</li> <li>4. To include an optional an initial step with an informal resolution opportunity, such as mediation or a facilitated discussion, when a council member or the CAO submits a council code of conduct complaint.</li> <li>5. To ensure that a complainant council member does not concurrently serve as a primary adjudicator. A fair, impartial process is impossible if a complainant or party in a dispute serves as a judge of the matter.</li> </ol>	57

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<b>R6</b>	<p><b>SAGE recommendation:</b> That the MGA s. 187(4) be followed consistently, and that the minutes clearly show if the resolution passed with unanimous consent. Suggested wording:  Moved by _____ that council consider third reading of Bylaw _____ at this meeting. Carried unanimously.</p>	64
<b>R7</b>	<p><b>SAGE recommendations regarding bylaws:</b></p> <ol style="list-style-type: none"> <li>1. That all current bylaws for the Village of Andrew be made available on the village website for easy public access.</li> <li>2. That the bylaws be listed in reverse-chronological order showing the most recent at the top of the list.</li> <li>3. That repealed or expired bylaws be organized online separately from the current bylaws to reduce confusion of what is "in force today."</li> <li>4. That bylaws be signed by the appropriate officials upon passing.</li> <li>5. That online documents show that the [original copy is signed] and that the village discontinue the process of inadvertently broadcasting personal signatures online, to protect personal privacy.</li> <li>6. That the binder index of the original, signed hardcopy bylaws be updated to remain current when any bylaw changes are made.</li> <li>7. That any repealed or amended bylaws be clearly labeled.</li> <li>8. That bylaws reference wording that is consistent with the MGA when "repealing" of a bylaw.</li> <li>9. That a CAO bylaw be in place to establish the position of chief administrative officer, as required by the MGA 205(1), and that appointments to this established position be made by resolution. This bylaw does not need to name a new CAO individually.</li> <li>10. That a bylaw review cycle be established to ensure that officials put their minds to local bylaws periodically. That a "review date" section be added to bylaws and diarized in the legislative staff calendar.</li> </ol>	65
<b>R8</b>	<p><b>SAGE recommends</b> that utility credits be applied to all affected customer accounts to correct the utility rate increases that were applied in June 2023 prior to passing Utility Rates Bylaw 2023-03 on July 12, 2023.</p>	72
<b>R9</b>	<p><b>SAGE recommendation regarding policies:</b> That all Village of Andrew policies be reevaluated by council and be updated or repealed to ensure consistency with legislation.</p>	74
<b>R10</b>	<p><b>SAGE recommendation:</b> That the following additional policies be considered for the Village of Andrew. If these</p>	75

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	<p>exist in some form, they should be brought up to date and followed.</p> <ol style="list-style-type: none"> <li>1. Personnel policy</li> <li>2. Facility security access and key distribution policy</li> <li>3. Privacy policy</li> <li>4. Financial policies: <ol style="list-style-type: none"> <li>a. Bank reconciliation policy</li> <li>b. Cash handling policy</li> <li>c. Procurement policy</li> <li>d. Investment management policy</li> <li>e. Reserve contribution policy</li> </ol> </li> </ol>	
<b>R11</b>	<p><b>SAGE recommendation:</b> That officials discontinue tracking the public during regular meeting attendance. Only public delegations registered to speak to council and individuals speaking during a public hearing need to be documented in the meeting minutes. If personal information is collected through a meeting sign in sheet, a process would need to be developed to ensure the protection of personal privacy.</p>	76
<b>R12</b>	<p><b>SAGE recommendation:</b> That officials develop and adhere to a more comprehensive agenda preparation process, and that staff recommendations are provided in a request for decision (RFD) format with background information.</p>	77
<b>R13</b>	<p><b>SAGE recommendation:</b> That council meeting agendas be provided to council and be made available to the public in advance of meetings in an easily accessible format, such as through the village website; And that council will address this item in an updated meeting procedures bylaw.</p>	77
<b>R14</b>	<p><b>SAGE recommendation:</b> That Council restrict random interjections from the gallery during meetings. Any person wishing to address council during a meeting can be invited to register as a delegate and can provide background information on their topic. Council should describe options for public participation in an updated meeting procedures bylaw.</p>	77
<b>R15</b>	<p><b>SAGE recommendation:</b> That all council and committee meetings should be advertised and documented with meeting minutes for the public record, even if no actionable resolutions are made.</p>	77
<b>R16</b>	<p><b>SAGE recommendation:</b> That all closed sessions during meetings reference the appropriate FOIP exceptions to disclosure.</p>	78
<b>R17</b>	<p><b>SAGE recommendation:</b> That village council collaborate with EIPS and consider engaging a qualified firm to conduct a business case analysis of potential options for the destruction or retention of the Andrew School building, and the location or relocation of village facilities.</p>	86

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<b>R18</b>	<b>SAGE recommendation:</b> That village council engage in meaningful consultation with the community and region prior to finalizing a decision on the Andrew School building.	87
<b>R19</b>	<b>SAGE recommendation:</b> That village council engage qualified expertise to conduct a community safety audit to reduce the risk of crime in the community, to ensure effective use and integration of facility monitoring systems, and to promote public education and awareness for crime prevention.	91
<b>R20</b>	<b>SAGE recommendation:</b> That village council pass a new records management bylaw that complies with legislation and the <i>Retention and Scheduling of Municipal Records</i> guidelines; And that staff receive records management training.	93
<b>R21</b>	<b>SAGE recommendations regarding assessment:</b> <ol style="list-style-type: none"> <li>1. That village council review and update the Designated Officer Bylaw 2008-01.</li> <li>2. That village council consider participating in a joint assessment review board, as per the MGA s. 455, and begin discussions with municipal neighbours.</li> <li>3. That village council provide a reasonable reimbursement of costs, including the \$50 complaint fee, and provide an apology letter to the property owner of tax roll 20076000 for the confusion and errors made in handling their 2022 assessment complaint.</li> </ol>	100
<b>R22</b>	<b>SAGE recommendations regarding taxation:</b> <ol style="list-style-type: none"> <li>1. That any material variances identified in the 2023 audited financial reporting be considered when preparing the 2024 operating and capital budgets for the Village of Andrew.</li> <li>2. That the bylaw title "Property tax bylaw" be used in the future to match the legislative reference in the MGA s. 353.</li> <li>3. That <i>either</i> mill rates or tax rates be shown on the property tax bylaw, <i>not both</i>, to avoid confusion.</li> <li>4. That the operating and capital budgets be provided to council in a format that is clear and acceptable to them.</li> </ol>	105
<b>R23</b>	<b>SAGE recommendations regarding tax sale:</b> <ol style="list-style-type: none"> <li>1. That all 2023 tax sale proceeds be properly applied to the property tax arrears owing for each respective tax account; And that any surplus tax sale proceeds be maintained in a separate account for sale proceeds as per the MGA s. 427 and be distributed in accordance with s. 428.</li> <li>2. That village council contract qualified expertise to conduct a detailed review of the Village of Andrew 2023 tax recovery process; And that following the detailed review council directs administration to</li> </ol>	117

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	<p>inform the affected previous property owners that their property was sold below market value in a public auction.</p> <ol style="list-style-type: none"> <li>3. That village council seek independent legal advice to provide options to compensate property owners who were negatively impacted by the irregularities in the Village of Andrew 2023 tax sale process.</li> <li>4. That village council contract qualified expertise and to provide guidance to village officials for the 2024 tax recovery process to ensure that it fully complies with the MGA requirements.</li> </ol>	
<b>R24</b>	<p><b>SAGE recommendation:</b> That village administration establish monthly and yearend financial procedures to ensure timely reconciliations of bank accounts and subledgers.</p>	127
<b>R25</b>	<p><b>SAGE recommendation:</b> That village council ensure that adequate resources are budgeted for contracted financial expertise and staff training in 2024.</p>	127
<b>R26</b>	<p><b>SAGE recommendations regarding finance:</b></p> <ol style="list-style-type: none"> <li>1. Perform reconciliations on all bank accounts. <ul style="list-style-type: none"> <li>• Although only two main accounts are used, all accounts should be reconciled to ensure all cash is monitored.</li> <li>• Ideally, each bank account maps to one GL account. This provides for easier tracking and transactions and outages are more easily identified.</li> <li>• It would be useful to review if the inactive accounts are still necessary. If they are not serving a purpose, the account can be closed.</li> <li>• Perform reconciliations monthly.</li> </ul> </li> <li>2. Timely reconciliations will give management the opportunity to address errors and other irregularities sooner, reducing risk. The monthly financial statements are more reliable if any adjustments required on the cash accounts are recorded through the process of the reconciliation. Management will be able to better manage cash flow. <ul style="list-style-type: none"> <li>• Reconciliations should be fully documented.</li> <li>• Source documents (ex. the bank statements), and a schedule comparing the book and bank balance should be attached to the reconciliation. For example, a report from the municipal software showing the book balance and the outstanding deposits and cheques.</li> <li>• Record adjustments promptly.</li> </ul> </li> <li>3. Transactions should be posted when they occur, not just when the bank statement is received. For example, payments made and received are posted against the accounts payable and receivable account, and then later matched to the bank statement.</li> </ol>	131

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	<ul style="list-style-type: none"><li>• Adjusting entries, correcting entries should be posted promptly. Prioritize research to find outages.</li><li>• Record the date and sign the reconciliations. File in a secure place and make electronic backup copies.</li><li>• The reconciliations should be signed by the preparer and reviewing and dated by each person. This record should be stored in a systemic filing system that is accessible as staff transition between roles. The dates of signature will provide support that reconciliations are performed in a timely manner.</li><li>• Ensure segregation of duties. Staff performing bank reconciliations should not have access to bank deposits, accounts payable, or payroll, and should not have authority to be a signer on a bank account.</li></ul> <p>4. Segregation of duties ensures that the person checking the bank activity is not also the one performing the bank activity. This may be a challenge with limited staff in Andrew.</p> <p>5. Document policies and procedures and update as needed.</p> <ul style="list-style-type: none"><li>• Documenting financial policies and procedures ensure the controls are formally in place and preserves organizational knowledge.</li></ul>	
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