

**COURT OF KING’S BENCH OF MANITOBA**

**B E T W E E N:**

AARON WIEBE, )  
 ) Kevin D. Toyne  
 applicant, ) for the applicant  
 )  
 - and - )  
 ) Lynda K. Troup  
 THE RURAL MUNICIPALITY OF ALEXANDER, ) Margaretha J. Spezzano  
 ) for the respondent  
 respondent. )  
 )  
 ) Judgment Delivered:  
 ) April 14, 2026

**BOND J.**

**BACKGROUND**

[1] Aaron David Wiebe (the “Applicant”) is a resident of Pinawa Bay within the Rural Municipality of Alexander (the “RM”). The RM is governed by an elected council (the “Council”).

[2] In 2022, the Applicant became concerned about the development of a sewage lagoon near his residence in the RM. He began to attend Council meetings, and to engage with the RM staff by way of email correspondence, written complaints, and freedom of information requests. Council and RM staff members consider his conduct at Council

meetings to be disruptive, his complaints unfounded, and his communication with RM staff to be persistent, hostile and accusatory in tone. The Applicant views his conduct to be legitimate engagement with the RM.

[3] In February 2024, the Council passed a resolution banning the Applicant from attending the RM office for a period of up to three years (Resolution No. 2024-088 dated February 13, 2024). In April 2024, the Council passed another resolution banning the Applicant from attending Council meetings (including virtual attendance), and banning him from contacting RM staff and councillors (Resolution No. 2024-202 dated April 16, 2024). I will refer to these resolutions collectively as the “Banning Resolutions”.

[4] The Applicant seeks a declaration pursuant to s. 382(1)(a) of *The Municipal Act*, C.C.S.M. c. M225 (the “**Act**”), that the Banning Resolutions are invalid on the ground that the Council acted in excess of its jurisdiction. The Applicant also seeks a declaration to the effect that he is entitled to attend Council meetings and an order that the RM must permit him to do so based on s. 152 of the **Act**.

[5] For the reasons that follow, I have concluded that the Banning Resolutions must be declared invalid, but that the additional relief sought is not appropriate.

### **STATUTORY PROVISIONS**

[6] The provisions of the **Act** relied upon by the Applicant read as follows:

Meetings to be conducted in public

152(1) Every meeting of a council or council committee must be conducted in public.

Réunions ouvertes au public

152(1) Les réunions du conseil et de ses comités sont ouvertes au public.

Public's right to be present at meetings

152(2) Everyone has a right to be present at a meeting of a council or council committee unless the person chairing the meeting expels a person for improper conduct.

...

Application for declaration of invalidity

382(1) A person may make an application to the court for a declaration that a by-law or resolution is invalid on the ground that

(a) the council acted in excess of its jurisdiction;

...

Order

382(3) Upon hearing an application under subsection (1), a judge may make the requested declaration and any other order he or she considers appropriate.

Droit du public d'être présent aux réunions

152(2) Toute personne a le droit d'être présente à une réunion du conseil ou d'un de ses comités à moins que le président de la réunion ne l'expulse pour inconduite.

...

Requête présentée au tribunal

382(1) Toute personne peut demander au tribunal de déclarer qu'un règlement municipal ou qu'une résolution est invalide du fait :

a) que le conseil a outrepassé sa compétence;

...

Ordonnance

382(3) Après avoir entendu la requête visée au paragraphe (1), un juge peut faire la déclaration demandée et rendre toute autre ordonnance qu'il estime indiquée.

## **FORM OF THE APPLICATION**

[7] The Applicant's Notice of Application claims reliance solely on s. 152 of the **Act** and Rule 14.05 (2)(c)(iv) of the **Court of King's Bench Rules**, M.R. 553/88, which allows for a proceeding to be commenced by application when the relief claimed for is "the determination of rights which depend upon the interpretation of ... [*inter alia*] a statute, ... by-law or resolution". In written and oral argument, counsel for the Applicant

relied on s. 382(1)(a) and (3) of the **Act** as the basis for this Court's jurisdiction to grant the relief sought.

[8] During the hearing of the Application, I raised questions regarding the nature of the application and what test ought to be applied. These questions reflect my concern that although framed as an application for declaratory relief, it is in effect an application for judicial review of decisions of a municipal council, which, in my view, attracts a standard of review of reasonableness, with deference owed to the council. (See ***Sul v. The Rural Municipality of St. Andrews, Manitoba et al.***, 2023 MBCA 25; ***Auer v. Auer***, 2024 SCC 36; and ***Ross v. Canmore (Town)***, 2026 ABCA 73.)

[9] Counsel for both parties insisted that the Application before me is not one of judicial review. Both maintained that the only question to be decided is whether the Banning Resolutions were "in excess of jurisdiction" in the sense that they were made without lawful authority; it is a question of statutory interpretation.

[10] I am left with some misgivings about the approach to be taken. However, in the end, it is not necessary to decide on the appropriateness of the form of the application for the purposes of this case. Even if I treated this matter as one of judicial review, with a standard of review of reasonableness, the result would be the same. I find that the Council's interpretation of its authority to pass the Banning Resolutions is both incorrect and not reasonable.

## **EVIDENCE**

[11] Both parties filed extensive affidavit evidence describing the Applicant's conduct and the conduct of RM staff members. The evidence is conflicting, recounting opposing

narratives of events and of the Applicant's conduct at Council meetings. Each party argued that where evidence conflicts, I should accept their evidence and reject that of the other party. The Applicant emphasized evidence he said shows that his conduct was not improper and was no more than the legitimate expression of his opposition to the Council and its decision-making. The RM pointed to evidence of the Applicant's purported disruption of Council meetings, as well as his allegedly harassing conduct and its impact on RM staff. Resolving the inconsistencies in the evidence would require an assessment of the credibility and reliability of witnesses' testimony.

[12] In addition, the Applicant raised legitimate objections to some evidence included in one of the affidavits filed by the RM. The affidavit includes hearsay without identifying its source, and some largely irrelevant information about reports of vandalism in the RM without any evidence linking them to the Applicant. The Applicant urged me to disregard this evidence.

[13] Given the conclusion I have reached in this application, it is not necessary for me to make evidentiary rulings or findings of fact. My references below to the alleged facts are limited to what is necessary to provide some context to the passing of the Banning Resolutions.

[14] Further, in my view, it would not be helpful for me make unnecessary findings of fact here, where conflicting affidavit evidence was filed by each party, unchallenged by cross-examination. One would hope that the parties will reach a mutual understanding of their respective rights and responsibilities, and that each will behave reasonably in the

future. However, they may find themselves before the Court again seeking judicial intervention, and factual findings are best left to that eventuality.

[15] I will simply make one comment: Neither party should read my decision as an endorsement of their conduct in this situation.

## **ISSUES**

[16] The following issues are to be decided:

1. Is the Applicant entitled to a declaration pursuant to s.382(1)(a) of the **Act** that the Banning Resolutions are invalid because the Council acted in excess of its jurisdiction?
2. Is the Applicant entitled to a declaration that he must be permitted to attend meetings and/or an order compelling the RM to permit him to be present at meetings (subject only to the power of the chair to expel him (pursuant to s.152(2) of the **Act**) pursuant to s.382(3) of the **Act**?
1. Is the Applicant entitled to a declaration pursuant to s.382(1)(a) of the Act that the Banning Resolutions are invalid because the Council acted in excess of its jurisdiction?

[17] Although there are two Banning Resolutions, there is considerable overlap in the arguments of the parties, and the required analysis in relation to each, so I will deal with them together.

[18] The Applicant attended a Council meeting in person at the offices of the RM on February 13, 2024. An incident occurred that prompted the chair of the meeting to request that he leave. The Applicant refused and was ultimately removed by a police officer, after RM staff called police. The Council then passed Resolution No. 2024-088

that same evening. This resolution banned the Applicant from attendance at the RM offices. It stated:

RURAL MUNICIPALITY OF ALEXANDER  
RESOLUTION 2024  
#2024 088

February 13, 2024

. . .

BE IT RESOLVED that the Council of the Rural Municipality of Alexander ban Aaron Wiebe from the municipal administration/public works building effective immediately until such time as a resolution of Council is passed to allow him entry back onto the property, or up to a maximum of three years.

Carried

[19] This resolution did not prevent the Applicant from attending Council meetings virtually, by way of videoconference. The Applicant attended a Council meeting virtually on February 27, 2024. During the meeting, and thereafter, the Applicant engaged in further conduct that RM staff and councillors found to be disruptive. This conduct included taking photos or screenshots of the proceedings during the meeting, and submitting complaints to the RM, alleging that the Mayor was drinking alcohol and sleeping during the meeting.

[20] The Council passed Resolution No. 2024-202 on April 16, 2024. This resolution banned the Applicant from attendance at meetings of Council, including virtual meetings, as well as from contacting staff of the RM or Council. It stated:

RURAL MUNICIPALITY OF ALEXANDER  
RESOLUTION 2024  
#2024 202

April 16, 2024

. . .

WHEREAS Aaron Wiebe has been banned from the municipal administration/public works building until such a time as a resolution of Council is passed to allow him

entry back onto the property, or up to a maximum of three years, as per resolution No. 2024 088;

NOW THEREFORE BE IT RESOLVED that Aaron Wiebe be banned from attending meetings of Council, including virtual meetings, as well as contacting municipal staff and Council.

Carried

[21] The RM claims that Resolution No. 2024-202 was passed in consideration of a pattern of conduct on the part of the Applicant between 2022 and April 2024. The RM says this includes persistent emailing where the Applicant used hostile and accusatory tones towards RM staff and Council, and written complaints without merit, as well as his disruptive conduct at meetings. The Applicant takes a different view of his conduct. Again, it is not necessary for me to resolve that debate here.

[22] Pursuant to s. 382(1)(a) and s. 382(3) of the **Act**, the Court may declare the Banning Resolutions invalid on the ground that the Council acted in excess of its jurisdiction. The issue, as stated by the Applicant, is whether the Council had the authority to pass the Banning Resolutions.

[23] “Without lawful authority, a council cannot act” (**Sul**, at para. 53). As a creature of statute, a municipality must exercise its powers in conformity with the provisions of its enabling statute (**John Deere Financial Inc. v. Macdonald (Rural Municipality)**, 2020 MBCA 90, at para. 18.)

[24] The Applicant argued that both of the Banning Resolutions are inconsistent with s. 152 of the **Act**. This provision, he argued, is an expression of the fundamental principle of openness in municipal governance. It codifies any person’s right to be present at a Council meeting. It also grants to the chair of the meeting the power to expel a person

from a meeting, if they engage in improper conduct. The Applicant argued that this is the full extent of the power granted by the **Act** to prevent members of the public from attending Council meetings. The Applicant argued that there is no authority to be found in the **Act** for banning him from attending future meetings, from attending the RM offices and from contacting RM staff members or councillors. There is precedent for his position. (See **Gammie v. Town of South Bruce Peninsula**, 2014 ONSC 6209, at paras. 66-67.)

[25] The RM did not seriously contest this point, but argued that the authority for Council to pass the Banning Resolutions could be found in its procedures by-law, passed pursuant to s.149(4) of the **Act**.

[26] The RM pointed out that s. 149 of the **Act** authorizes the Council to pass by-laws addressing its procedures (referred to as a procedures by-law). It argued that pursuant to this provision, the Council had authority to enact a procedures by-law that permitted the Council to pass the Banning Resolutions.

[27] Section 149 of the **Act** requires that a municipal council establish rules of procedure by way of a procedures by-law (s. 149(1)) and requires that the council govern itself in accordance with its procedures by-law (s. 149(2)). It sets out specific mandatory provisions for the procedures by-law such as providing for regular meetings, rules for the conduct of meetings, and rules respecting public participation at council meetings (s. 149(3)). It also allows the council to include in its procedures by-law provisions for "such other matters as the council considers necessary or desirable" (s. 149(4)).

[28] The Council had passed multiple iterations of its procedures by-law during its tenure between 2022 and 2024. However, the by-law provisions relied on by the RM remained consistent. They are:

- (a) Section 9.9: Council shall hold its meeting openly and no person shall be excluded, except for improper conduct.
- (b) Section 14.0: Council may act only by resolution or by-law.
- (c) Section 16.1: Everyone has a right to be present at a meeting of council or council committee unless council by resolution closes the meeting or the person chairing the meeting expels a person for improper conduct.
- (d) Section 16.11: Where at a council meeting, any person other than a member of council is, in the opinion of the chair, conducting themselves in a disorderly or improper manner, the chair may require that person to leave the meeting and if that person fails to do so, may cause that person to be removed.
- (e) Section 16.13: Persons in the council chambers are not permitted to display signs or placards to applaud participants in debate or to engage in conversation or other behaviours which may disrupt council proceedings.

...

[29] I agree with the RM that s. 149(4) of the **Act** is permissive and broad in scope. There is no basis to find that the provisions of the procedures by-law relied on by the RM are in excess of jurisdiction. The procedures by-law provisions are consistent with the statutory requirement that Council meetings are open and that anyone is allowed to attend, subject to the authority of the meeting's chair to expel someone for disorderly or improper conduct. As argued by the Applicant, the procedures by-law provisions do little more than reiterate s. 152 of the **Act**.

[30] However, I do not accept the RM's argument that the procedures by-law provisions provide authority for the Banning Resolutions. I come to this conclusion for two reasons.

[31] First, authority for the imposition of a long-term ban on attendance at council meetings is not compatible with the plain meaning of the procedures by-law section relied on, when read in the context of the remainder of the procedures by-law. Section 16.11 of the procedures by-law refers to expulsion from a meeting by the chair for improper conduct. The trigger for expulsion is disorderly or improper conduct at the meeting, and the chair is given the authority to require a person to leave and to cause them to be removed. This section is clearly aimed at addressing the conduct of an attendee at a council meeting. It does not provide for banning a person from future attendance at council meetings. It does not provide for banning someone from attendance at municipal offices or from contacting RM staff or councillors.

[32] Section 9.9 of the procedures by-law reiterates that council meetings are to be open to the public, stating that “no person shall be excluded, except for improper conduct”. Although section 9.9 uses the term “excluded” rather than “expelled,” it is similar in scope. In my view, section 9.9 and section 16.11 of the procedures by-law are complimentary in effect, and together provide a mechanism for the chair of a council meeting to deal with disruptive behaviour at the meeting. Section 9.9 confirms that a meeting is open to everyone, with the exception of any individual who has been required to leave by the meeting’s chair. Section 16.11 provides for the expulsion and removal of an individual from a meeting for improper conduct. Read together, these sections allow the chair of a meeting to expel an individual from a meeting, have them removed from a meeting if they refuse to leave, and exclude them from re-attendance at that meeting. They go no further.

[33] The Banning Resolutions, however, go much further. They ban the Applicant's attendance at future Council meetings for a period of three years. They also ban him from attending at RM offices and from contacting RM staff and councillors. Even if only the ban on attendance at future Council meetings is considered, in my view, section 9.9 of the procedures by-law does not authorize the long-term ban imposed on the Applicant by the Banning Resolutions.

[34] Second, the procedures by-law must be interpreted in a manner that is consistent with the **Act**, its enabling statute (*John Deere*, at para. 18). Section 152 of the **Act** mandates council meetings be conducted in public, and affirms every person's right to be present at the meeting, subject to certain limited exceptions. Those exceptions involve particular circumstances where a meeting may be closed to the public (not in issue here) and the expulsion of an individual by the chair of the meeting for improper conduct. To interpret the procedures by-law as authorizing a long-term ban on an individual's attendance at council meetings would not be consistent with s.152 of the **Act**.

[35] I conclude that the authority to pass the Banning Resolutions cannot be found in the **Act** and cannot be found in the procedures by-law.

[36] The RM raised, as an alternative authority for the Banning Resolutions, **The Trespass Act**, C.C.S.M. c. T156. In my view, **The Trespass Act** is of no assistance, as it does not grant authority for the Council to pass the Banning Resolutions.

[37] I have considered the Applicant's further argument that s. 149(4) of the **Act** does not provide authority to the Council to enact any by-law that would provide for a long-term ban of someone from attendance at future meetings or ban someone from

attending at the municipal offices or contacting RM staff or councillors. His argument that s. 152 of the **Act** enshrines openness and constrains the Council's authority to limit attendance has merit. But so does the contrary argument that it is impractical and cumbersome to require a municipality to resort to the Courts to address the mischief and harm that may be caused by disruptive or harassing conduct. It is unnecessary for me to determine this issue in this case, and in my view, it is best left to a case where such a by-law is under consideration.

[38] I conclude that the Banning Resolutions are neither an exercise of the RM's authority under the **Act**, nor under the RM's procedures by-law. In passing them, the Council acted in excess of its jurisdiction. Resolution No. 2024-088 and Resolution No. 2024-202 must be declared invalid.

2. Is the Applicant entitled to a declaration that he must be permitted to attend meetings and/or an order compelling the RM to permit him to be present at meetings (subject only to the power of the chair to expel him (pursuant to s. 152(2) of the Act) pursuant to s. 382(3) of the Act?

[39] Section 382(3) of the **Act** provides broad authority to make any other order appropriate. The Applicant seeks a declaration that he is entitled to attend Council meetings and an order requiring the RM to permit his attendance. These additional remedies are denied, for the following reasons.

[40] First, with the Banning Resolutions declared invalid, the Applicant's attendance at Council meetings is governed by the provisions of the **Act** and the procedures by-law discussed above. These provisions require open meetings and authorize the chair of any meeting to expel someone for disruptive conduct. An order requiring the RM to comply

with these provisions is unnecessary. Moreover, should circumstances arise where the Applicant were to engage in disruptive conduct at a Council meeting, the chair should not be precluded from acting within their authority.

[41] Second, as counsel acknowledged at the hearing of this matter, the RM may have legal avenues to address its concerns regarding the Applicant's conduct, such as by way of ***The Trespass Act***, or injunction. I offer no opinion as to whether other legal avenues are appropriate. But should the RM choose to pursue other legal avenues, an order or declaration from this Court to the effect that the RM must allow the Applicant to attend Council meetings could be in conflict with a determination made by another court, or otherwise complicate matters.

### **CONCLUSION**

[42] The Application is allowed in part.

[43] The following declarations are granted pursuant to s. 382(1)(a) and (3) of the ***Act***:

- Resolution No. 2024-088 passed on February 13, 2024 is invalid.
- Resolution No. 2024-202 passed on April 16, 2024 is invalid.

[44] No additional remedy is granted.

[45] Costs may be spoken to, if not agreed.

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Bond J.