

LETTER TO THE EDITOR aka "DARRYL's Feb. 2010 RANT" (online version)

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WARNING!!!! These are my opinions. If my opinions offend you, please stop reading now and save yourself the grief. As always, please feel free to contact me to correct my errors.

Summary: Normally I would wait for the print edition of the Anmore Times to present my rant. This month an item has come up that can't wait. Councillors Sedergreen and Piamonte are acting against the Village's interest and doing something that will both waste Village taxdollars for nothing and, more seriously, needlessly expose Anmore to a liability (instead of protecting the Village from liability). Essentially, they are looking for trouble for the Village. For the details, read on.

This rant addresses Councillors Sedergreen's and Piamonte's misguided and, I feel, politically-motivated quest to find or create Anmore Village liability in connection with the Anmore Renewable Energy Foundation (AREF). Councillor Sedergreen has put forward an motion (seconded by Councillor Piamonte) to create an expensive, independent external "task force" to try to find out **IF** the Village **COULD** be liable to pay funds allegedly owed by AREF. That's right, Councillors Sedergreen and Piamonte want to waste your tax dollars just to try to find out whether Anmore **MIGHT** some day be liable to spend even more of your tax dollars. Why would they want to do this? The only reasons that I can think of are to pursue a political agenda and try to discredit the former Mayor. The motion was tabled and not yet voted on but the mere bringing of such a motion is not in Anmore's best interests and has already resulted in the open discussion of Anmore legal issues. I have done enough research to feel comfortable making the following comments. Much of my information is based on the lengthy due diligence report that can be found at: www.anmore.com/files/{39F2E9D8-16B1-423D-8B7B-3645C7D14D5E}renewableenergyfoundation-WEDCreport.pdf.

1. In my opinion, Councillor Sedergreen's motion is improper because it involves discussion of Village legal issues at a public meeting. To protect the Village from liability, Village legal issues are properly the subject of in-camera Council meetings. The Feb 23 meeting summary (where the motion is described) is located at the Anmore Alternative website at: www.anmorealternative.com.

(Incidentally, in the Anmore Alternative the February 23 meeting was well summarized and not overtly political. Whoever produced this summary, good work – keep it up.)

2. Even if Councillor Sedergreen still wants to discuss Village legal issues in a public meeting, it is unwise, inappropriate, and maybe even negligent to do so, as I will now discuss. The AREF project (Project), which seems to have been a pet project of former mayor Weinberg's, was intended to help the environment by researching and, if feasible, implementing cutting edge green energy and, hopefully showcasing Anmore and creating educational opportunities. I doubt that many would object to such worthy and environmentally conscious objectives. The Project was to consider solar power, wind power and hydro power. Numerous governmental and private bodies supported the idea, financially, in principle and with the voluntary supply of expertise. AREF, a charitable body, legally different and distinct from the Village, was set up, through which the Project could be implemented. Once the AREF

had the necessary approvals and finances arranged, a study began. To make a long story short, the Project has not been a success. Wind studies indicated that wind power is not practical due to low winds. The solar panels might be practical, but they were relocated to the Village Hall (the big sculpture-like object with blue framing and solar panels on top), where they theoretically can provide enough electricity to operate the Village Hall (but not function as originally envisioned). The hydro portion of the Project may be practical but was not implemented. As of now, the AREF no longer has charitable status and apparently has debts (alleged overpayment by the Western Diversification program and some monies allegedly owed in relation to the solar panel array). The Project may still be feasible, in some form, but further work is needed. As I understand it, nobody has made a claim against the Village for any debts of the AREF. A legal opinion, disclosed by Council at the Feb 23, 2010 Council Meeting concludes that the Village has not assumed liability for the AREF debts simply by virtue of having the solar panel installed on Village property. Councillor Sedergreen was pleased to have his neighbour, friend and patient, lawyer Barron present at the Council Meeting and he invited lawyer Barron to come forward and express his view of the legal opinion. Surprisingly, lawyer Barron, who has been liberally peppering email inboxes with his opinions and vehemently expressing them at Council meetings, was suddenly unwilling to express his opinion in public. Personally, I don't think that Council should ever make a legal opinion public (lawyer Barron did not see fit to state this at the Meeting and, unfortunately, neither did I). The Anmore Alternative has its version of AREF events posted on its website. I find their version to be high on political innuendo, but please read it if you wish.

3. With that background, let me explain why what Councillors Sedergreen and Piamonte are doing is harmful to the Village, foolish and possibly negligent. They propose that the Village hire (and pay for) an independent external "task force" to hunt for unknown Village financial liability (NOT to investigate known financial liability). Why would they do this when there are only two potential outcomes (both damaging to the Village). One, there is no Village liability – Anmore is not now and never was liable for the AREF's liabilities and the entire exercise was a waste of time and taxpayer money. Two, even if potential liability may exist, nobody has made a claim against the Village. In scenario two, even if somebody could invent some legal argument that suggests that there could be potential Village liability, why would the Village want to spend money to pursue the issue and expose that fact to those who might never even make claims against the Village? In effect it is like a business that hasn't even done business with someone saying "hey, we've paid for some legal research and, we probably don't owe you money, but just in case, here's how to try and get money from us". In scenario two, potential claimants may not be aware that they even have a claim (so a claim will never be made) or simply don't want to pursue a claim (although Councillor Sedergreen and Piamonte's "task force" could inspire them to change their mind).

4. Since no claim has been made against Anmore for the debts of the AREF, and the AREF is a different legal entity from the Village of Anmore, this is not even a matter that Council should pursue unless and until some claim is made against Anmore. If at some time a valid claim is made against the Village, Council will then be involved and further investigation will become necessary but, at present, Councillors Sedergreen and Piamonte are premature in their motion for a "task force". The matter is one between AREF and its creditors and, consequently, not a Council matter. Further, if Council wishes to discuss this

matter (even if it is none of Council's business), it is clearly a legal matter. Councillor Sedergreen should never have placed the item on the agenda since it is a Village legal issue and, therefore, must be considered by Council at an in-camera meeting, not a public meeting.

Conclusion

Councillors Sedergreen and Piamonte, your job as Councillors is to protect the Village from liability, not to actively search for and expose the Village to any risk of liability – you are acting directly against the Village's interest. Even if, by some chance in the future, there are claims made against Anmore, a Councillor's duty is to investigate and fight them, not encourage them. In my opinion, it would be costly, wasteful, strategically foolish, counterproductive and potentially even negligent (and in direct conflict with a Councillor's duties to act on behalf of the Village) to appoint a task force in these circumstances, or to further discuss Village legal issues at a public meeting. If somebody independent of Council wants to pursue this issue further, they are, of course, free to do so. But, given the risks to Anmore, that I have presented above, why would they unless they want to hurt the Village?