

TOWNSHIP OF EDWARDSBURGH CARDINAL ACTION ITEM

Committee: Committee of the Whole – Administration & Operations

Date: February 13, 2023

Department: Administration

Topic: Integrity Commissioner Appointment

Purpose: To appoint an integrity commissioner for the Township of Edwardsburgh Cardinal to fulfill all duties as outlined under the Act.

Background: Council appointed Andrew Tremayne as the Township's Integrity Commissioner on May 25, 2015. Mr. Tremayne continued to be the Township's Integrity Commissioner throughout the 2014-2018 and 2018-2022 council terms. Mr. Tremayne has informed the Township of his planned retirement in November 2022. Mr. Tremayne agreed to remain as the Integrity Commissioner until the Township is able to find a new individual for the appointment.

As per the Municipal Act, section 223.3(1) the Integrity Commissioner reports to council and is responsible for performing in an independent manner with the functions assigned by the municipality with respect to:

1. The application of the code of conduct for members of council and committee;
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards;
3. The application of section 5, 5.1 and 5.2 of the Municipal Conflict of Interest Act to members of council and of local boards;
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members;
6. Requests from members of council and of local boards for advice respecting their obligations under the Municipal Conflict of Interest Act;
7. The provisions of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the Municipal Conflict of Interest Act.

Additionally, in the past the Township has appointed the Integrity Commissioner as the Meeting Investigator in accordance with Section 239.2 of the Municipal Act.

The Integrity Commissioner's functions also include conducting inquiries into requests from council or local board, a member of council or a local board, or a member of the public about whether a member of council or of a local board has contravened the applicable code of conduct. If the commissioner reports that, in their opinion, a member of council or of the local board has contravened the code, the municipality may impose a penalty in the form of a reprimand or a suspension of pay for a period of up to 90 days. It is up to the municipality to decide how to proceed after the Integrity Commissioner's report. The council may also consider other measures that may be outside a code of conduct process, such as requesting an apology and/or removing the member from committee(s).

There are a variety of options available to secure the services of an Integrity Commissioner, such as, placing advertisements in newspapers and professional magazines and subscriptions, retaining the services of a recruitment firm, engaging in a formal RFP process, seeking recommendations from neighbouring municipalities, our current commissioner or the Township's solicitor. While most of these options may be more appropriate for larger municipalities looking to engage an Integrity Commissioner, the latter processes of seeking recommendations from neighbouring municipalities and/or current Integrity Commissioner and/or Township's solicitor are likely more suitable.

The United Counties of Leeds and Grenville issued an RFP for a Joint Integrity Commissioner in 2019 which municipalities could use the results of if they so choose. Tony Fleming of Cunningham, Swan, Carty, Little & Bonham LLP was selected. In 2019 the Township decided to remain with Mr. Tremayne as he was already appointed as the Integrity Commissioner and had past experience and a working relationship with the Township Council and Staff.

Mr. Fleming is well regarded as a Certified Specialist in Municipal Law and Integrity Commissioner services. Mr. Fleming is currently appointed as the Integrity Commissioner for approximately 70 municipalities and counties, including the following locally:

- United Counties of Leeds and Grenville
- Town of Gananoque
- Town of Prescott
- Township of Leeds and Thousand Islands
- City of Brockville
- Township of Front of Yonge
- Village of Westport
- United Counties of Stormont, Dundas, Glengarry

Policy Implications: Ensuring accountability and transparency is one of council's roles under section 224 of the Municipal Act and is a priority in maintaining public trust. In accordance with Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017, as of

March 1, 2019, all municipalities in Ontario are required to have a code of conduct and appoint an Integrity Commissioner.

Financial Considerations: There is no annual retainer for the service and the Township would be billed on an as required basis if there is a complaint and/or investigation. Mr. Fleming uses associate lawyers whenever possible to keep costs down. The current hourly rate is \$295 for Mr. Fleming's services. This is a slight reduction in cost compared to the Townships previous Integrity Commissioner hour rate of \$340.

Alternatives: Committee and Council could decide to direct staff to issue a request for proposals (RFP) for integrity commissioner services. This typically takes several weeks and may not result in anyone with experience or knowledge of the Township or surrounding municipalities.

Recommendation: That Committee recommends that Council appoint Tony Fleming as the Township's Integrity Commissioner.



Clerk



CAO