

Appointment of Integrity Commissioner

Date	March 17, 2021
To	Executive Committee
From	City Solicitor's Office
Service Area	Office of the City Solicitor
Item No.	EX21-19

RECOMMENDATION

The Executive Committee recommends that City Council:

1. Delegate authority to the City Solicitor, subject to the concurrence of the City Clerk, to negotiate and engage the services of an integrity commissioner or commissioners as outlined in this report for a period of up to four years on a retainer basis, on an *ad hoc* interim basis or jointly with other municipalities if feasible.
2. Authorize the City Clerk to execute the necessary agreements after review and approval by the City Solicitor.
3. Approve these recommendations at its meeting on March 31, 2021.

ISSUE

The current Integrity Commissioner will be retiring effective December 31, 2021, so it is necessary to undertake a process to find and appoint a new Integrity Commissioner.

IMPACTS

Using an integrity commissioner process to investigate and adjudicate Council member code of ethics violations ensures impartiality and independence. Using an integrity commissioner to investigate and provide recommendations on code of ethics complaints is considered best practise and common in larger municipalities in Western Canada (Vancouver, Calgary, Edmonton, Saskatoon, Regina and Winnipeg) and is required in Ontario.

The Cities Act requires Council to have a process to deal with Council member code of ethics violations. As *The Code of Ethics Bylaw*, Bylaw 2017-4, currently includes using an integrity commissioner for this purpose, it is necessary for Council to appoint a new Integrity Commissioner.

In terms of financial implications, the City has paid \$32,235 in fees to the current Integrity Commissioner from the start of his appointment (in July 2018) to December 31, 2020. In the current contract, there is a set annual fee paid to secure his services. In addition, the Integrity Commissioner charges the City an hourly rate subject to a cap on his fee for educational sessions as well as a cap on his fees for doing other presentations or preparing any annual reports. The City would look at negotiating a similar arrangement with a new Integrity Commissioner. The City Clerk's Office includes \$50,000 a year in its budget for these services.

There are no other financial, environmental, risk/legal or other implications or considerations.

OTHER OPTIONS

Instead of using an integrity commissioner, another option would be to amend Bylaw 2017-4 to remove the requirement for an integrity commissioner and instead have Council hire a third party investigator as complaints are received. This option was considered originally when Bylaw 2017-4 was passed. However, Council wanted to have someone in place to do investigations and provide advice and education. This option is not recommended for these reasons.

COMMUNICATIONS

The City Solicitor and City Clerk will update City Council on the new appointment, and the City will update the public on Regina.ca.

DISCUSSION

In October 2016, amendments to *The Cities Act* and *The Cities Regulations* came into force that required all cities to adopt a code of ethics and have a process for dealing with violations of the code of ethics by Council members. To comply with this legislative requirement, City Council passed Bylaw 2017-4 on January 30, 2017.

Integrity Commissioner Services

In addition to passing Bylaw 2017-4, Council authorized the City Solicitor, upon concurrence of the City Clerk, to negotiate and engage the services of an integrity commissioner or commissioners for a period of up to four years. The integrity commissioner services include:

- advising Council members on questions of compliance with *The Code of Ethics Bylaw*;

- assessing, investigating and conducting inquiries as to whether a member has contravened *The Code of Ethics Bylaw*;
- determining and reporting to Council as to whether a member has violated *The Code of Ethics Bylaw*; and
- making recommendations on appropriate sanctions where there is a violation.

Currently, the Integrity Commissioner does not investigate or provide recommendations relating to violations of the conflict of interest provisions of *The Cities Act* as these are specifically excluded from *The Code of Ethics Bylaw*. The reason for this is that the Saskatchewan Ombudsman was given authority to investigate these violations, and the Ombudsman is independent and has broad legislated investigative powers to compel witnesses and compel the provision of information. Neither Council nor the Integrity Commissioner has any of these powers in the legislation, making it more difficult for them to investigate conflicts of interest. Further, until the fall of 2020, Council could not disqualify its own members for violating the conflicts of interest provisions, so there was no effective penalty or sanction that Council could impose. Prior to this, a voter or Council would have to go to court to disqualify the member.

The Government of Saskatchewan made amendments to *The Cities Act* in the fall of 2020 that now allow Council to disqualify its own members for failing to comply with the requirement to file the public disclosure statement required in section 116 of *The Cities Act* or failing to disclose a conflict of interest the member has in a matter before the Council or a committee pursuant to section 117 of *The Cities Act*. Because of the lack of investigative powers mentioned above, the Administration is still not recommending that the Integrity Commissioner expand their scope of services to include investigating or making recommendations relating to violations of the conflict of interest provisions of *The Cities Act*. The Integrity Commissioner in Saskatoon also does not investigate or provide recommendations relating to violations of the conflict of interest provisions of *The Cities Act*. This approach is consistent between Regina and Saskatoon.

Process to Appoint an Integrity Commissioner

In terms of appointing the current Integrity Commissioner, the City Solicitor and City Clerk undertook a process to advertise the position and interview candidates. Under this process, Mr. Randy Langgard was selected. He is a lawyer with experience in provincial government and was a former Regina City Councillor, so he was well suited for the role. He will finish his contract as Integrity Commissioner on December 31, 2021. Mr. Langgard was also the Integrity Commissioner for Saskatoon. The City will consider if it is possible to work with Saskatoon to have the same person or persons provide services to both cities. It is advantageous to have the same person as that person then gains more experience, and there is some consistency between interpretations and recommendations made.

In terms of qualifications for a new integrity commissioner or commissioners, the City Solicitor and City Clerk would be looking for a lawyer or retired judge with proven impartiality; experience in managing sensitive inquiries; previous experience in the areas of governance, procedure and ethics; experience and familiarity with investigator procedures

and the applicable legal principles and an understanding of municipal governance and the governance framework.

While the current Integrity Commissioner has not had any formal complaints brought forward to Council since his appointment commenced, he has provided advice to individual Council members on the code of ethics and provided educational sessions to Council. Further, he has provided advice to the City Clerk on the Council Website Content Governance Policy when requested. Mr. Langgard also presented at the Saskatchewan Urban Municipalities Association annual conference in February 2019 on council ethics and his role as Integrity Commissioner.

DECISION HISTORY

As a result of Report CR17-6, Council adopted a code of ethics and delegated authority to the City Solicitor and City Clerk to appoint an integrity commissioner to deal with violations of the code. Mr. Langgard was appointed initially until December 31, 2020. Through Report CR20-37 from the May 27, 2020, Council meeting, this appointment was extended until December 31, 2021. As Mr. Langgard wishes to retire, it is now necessary to appoint a new Integrity Commissioner.

The recommendations in this report require City Council approval.

Respectfully Submitted,



Jim Nicol, City Clerk

3/5/2021

Respectfully Submitted,



Byron Werry, City Solicitor

3/9/2021

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