

# City of Mississauga

# Corporate Report



Date: May 15, 2023

To: Chair and Members of the Governance Committee

From: Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

Originator's files:

Meeting date:  
May 29, 2023

## Subject

**Procurement of Integrity Commissioner Services**

## Recommendation

1. That the mandate of the Integrity Commissioner shall be to act as an advisor to members of Council and local boards on matters relating to ethics, their respective codes of conduct and the *Municipal Conflict of Interest Act*, to act as an educational resource in this respect, and to independently receive and investigate complaints regarding possible breaches of the code of conduct or *Municipal Conflict of Interest Act* by a member of Council or a local board;
2. That the qualifications of an Integrity Commissioner, beyond being independent and impartial, as set out in the report titled "Procurement of Integrity Commissioner Services" dated May 15, 2023 from the City Solicitor, be approved.
3. That staff be authorized to issue a request for proposals (RFP) seeking applicants for the position of Integrity Commissioner for a term of up to two years, renewable for an additional term of up to four years, to carry out this mandate and any additional duties that may be placed upon the Integrity Commissioner by legislation.
4. That the City Clerk, the City Solicitor and the City Manager be appointed to the evaluation committee responsible for evaluating proposals and making a recommendation to City Council on a new Integrity Commissioner.

## Report Highlights

- The City's Integrity Commissioner, Robert Swayze, was appointed to a 4-year term that

would have expired on June 30, 2025. Mr. Swayze resigned his position effective March 22, 2023 and the City is currently receiving interim integrity commissioner services from the firm Principles Integrity, the IC for the Region of Peel.

- Council has historically appointed its Integrity Commissioner (IC) with terms set to expire in June of the last year of the Council term, so that the outgoing Council can set the mandate of the IC and ensure that an IC is appointed and in place before the incoming Council takes office. Furthermore, IC terms were historically non-renewable.
- Given Mr. Swayze's resignation, and the current interim arrangements, it is proposed that an RFP be issued to retain the services of an Integrity Commissioner to serve until June 30, 2025, with an option to renew the term for up to an additional 4 years.

## Background

Section 223.3 of the *Municipal Act, 2001* authorizes municipalities to appoint an Integrity Commissioner who reports to Council. The Act requires that the Integrity Commissioner be independent and perform the function identified in the legislation and as assigned by the municipality. The Integrity Commissioner must be independent and impartial, and best practices indicate that they should not be employed by the municipality and should be appointed on a part-time basis. Remuneration should be fixed at a reasonable level to avoid concerns about undue influence. If a municipality does not appoint an Integrity Commissioner, it must make arrangements for the function to be provided by an Integrity Commissioner of another municipality.

Effective March 1, 2019, the Integrity Commissioner's responsibilities were expanded. In addition to application of the code of conduct and rules regarding ethical behaviour for members of council and of local boards, responsibilities now also include:

- application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
- requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
- 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.
- requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
- provision 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*.

As well, the *Municipal Act, 2001* has expanded the category of persons who can file a complaint under the *Municipal Conflict of Interest Act* beyond those who are electors in the municipality to a broader “person demonstrably acting in the public interest”.

The *Municipal Act, 2001* sets out rules and time restrictions in the conduct of inquiries by the Integrity Commissioner.

## Comments

The City's Integrity Commissioner, Robert Swayze, was appointed to a 4-year term that would have expired on June 30, 2025. Mr. Swayze resigned his position effective March 22, 2023 and the City is currently receiving interim integrity commissioner services from the firm Principles Integrity, the Integrity Commissioners for the Region of Peel.

It is recommended that an RFP be issued to select a new Integrity Commissioner. It is also recommended that the term of the appointment end June 30, 2025, but be renewable for up to 4 additional years, which will enable the outgoing Council to confirm the mandate and appointment of the IC prior to the municipal election in 2026, while minimizing the disruption of Mr. Swayze's resignation.

The mandate set for former Integrity Commissioner included the responsibilities as expanded by the *Municipal Act, 2001* in 2019, and it is recommended that the mandate of the new Integrity Commissioner remain the same.

The qualifications of an Integrity Commissioner, beyond the need to be independent and impartial, as approved by City Council in previous appointments, include:

- proven impartiality and neutrality, comparable to that of a judge;
- ability to provide services on a part-time, flexible and as-needed basis without competing employment demands;
- no involvement in political campaigning/endorsements, no political party membership and no related conflict of interest;
- no financial interest in the work undertaken by the City;
- an independent person known to have high ethical standards;
- experience managing sensitive inquiries, conducting investigations and making appropriate recommendations;
- excellent communication skills;
- familiarity with investigatory procedures and applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice;
- general knowledge and appreciation of municipal government;
- ability to interpret and apply the provisions of various statutes, regulations, policies and other enabling documents;
- impartiality, wisdom, sound judgment combined with an ability to inspire trust and confidence;

- at least 10 years of senior-level management, legal, tribunal or judicial experience with preference given to those with judicial experience.

When the City last issued an RFP to select an Integrity Commissioner, the City Solicitor and City Clerk served on the evaluation committee to assess applications. Members of Council were invited to attend interviews in the recruitment process. Direction is sought in respect of the composition of the evaluation committee for this new RFP and it is recommended that the City Clerk, City Solicitor and City Manager for the evaluation committee.

## Financial Impact

\$100,000 annually has been budgeted for the services of an Integrity Commissioner.

## Conclusion

The City is currently receiving interim services from Peel Region's Integrity Commissioners, following the resignation of Mr. Swayze. The purpose of this report is to seek authority to issue a new RFP to retain an Integrity Commissioner and determine the qualifications and an evaluation committee.



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Andra L. Maxwell B.A., LL.B., CIC.C, City Solicitor

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