

Presented To:	City Council
Presented:	Tuesday, Jul 10, 2018
Report Date	Monday, Jun 18, 2018
Type:	Managers' Reports

Request for Decision

Appointment of Integrity Commissioner

Resolution

THAT the City of Greater Sudbury establishes the office of the Integrity Commissioner for the City of Greater Sudbury and appoints Robert Swayze as the Integrity Commissioner effective December 1, 2018 as described in the report of the General Manager of Corporate Services presented at the City Council Meeting on July 10, 2018;

AND THAT the necessary by-laws be prepared.

Relationship to the Strategic Plan / Health Impact Assessment

This report moves forward the following priorities under the Responsive, Fiscally Prudent, Open Governance pillar in the Corporate Strategic Plan:

A. Focus on openness, transparency and accountability in everything we do.

D. Emphasize the relationship between governance, community engagement and information, in support of better decision-making.

Report Summary

The purpose of this report is to seek City Council's approval to establish the office of the Integrity Commissioner for the City of Greater Sudbury and appoint Robert Swayze as the first Integrity Commissioner for the City of Greater Sudbury.

Financial Implications

The services of the Integrity Commissioner for 2018 will be funded from the reserve for various (professional services). The costs will be included in the base budget for 2019.

Signed By

Report Prepared By

Carolyn Dawe
Acting Deputy City Solicitor
Digitally Signed Jun 18, 18

Manager Review

Carolyn Dawe
Acting Deputy City Solicitor
Digitally Signed Jun 18, 18

Division Review

Eric Labelle
City Solicitor and Clerk
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Financial Implications

Jim Lister
Manager of Financial Planning and
Budgeting
Digitally Signed Jun 20, 18

Recommended by the Department

Kevin Fowke
General Manager of Corporate
Services
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Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Jun 19, 18

BACKGROUND

On January 23, 2018, City Council passed the following resolution:

THAT the City of Greater Sudbury approves the selection process for an Integrity Commissioner for the City of Greater Sudbury;

AND THAT staff are directed to develop a new code of conduct applicable to members of City Council and local boards, including a complaint protocol, and establish the office of the Integrity Commissioner, all as described in the report of the General Manager, Corporate Services entitled Implementation of an Integrity Commissioner presented at the City Council Meeting on January 23, 2018.

In furtherance of the steps set out in the Implementation of an Integrity Commissioner report ("Implementation Report"), staff issued the Request for Proposals for the services of an integrity commissioner. The RFP remained open for 30 days. The following proponents submitted three bids (bids include HST):

- Robert Swayze
- ADR Chambers Inc.
- Aird & Berlis LLP

One bid, the bid by Aird & Berlis LLP, was disqualified in accordance with the City's Purchasing By-law, By-law 2014-1.

The staff evaluation team comprised of the General Manager of Corporate Services, the City Solicitor and Clerk and the Deputy City Solicitor/Deputy City Clerk conducted a comprehensive evaluation process involving 2 stages. The evaluation team reviewed the remaining 2 bids and scored the written proposals using evaluation criteria based on the following principles:

1. Previous municipal governance, procedural and/or ethics experience;
2. Knowledge of municipal government and an understanding of Council and/or local board operations and policies;
3. Knowledge of municipal law as relates to the accountability and transparency provisions in the Act;
4. Ability to provide services in a flexible and as needed manner without competing other demands;
5. Ability to develop trust and maintain credibility with City Council, staff and media;
6. Ability to maintain confidentiality, independence and confidentiality;
7. Experience receiving and managing complaints and conducting fair and impartial investigations which include the use of alternative dispute resolution processes
8. Experience drafting written advice and reports for individual and public review;

9. Ability to provide written advice and develop and deliver educational services;
and
10. Efficient use of City funds.

This first stage of the evaluation by the Evaluation team included scoring of qualifications, expertise, experience and references, the proponent's proposed workplan and financial proposal. Financial proposals were required to include a total bid amount with an annual retainer fee, travel expenses and an hourly rate based on an estimated amount of 250 hours of work for the first year of the contract.

Both of the remaining proponents achieved the necessary scores to proceed to step 2 of the evaluation, which involved an in-person interview and presentation.

Step 2 of the evaluation process included review of sample written Integrity Commissioner reports, a proponent presentation on Bill 68 and nine questions eliciting information relating to the proponents' expertise and experience relating to the role of municipal integrity commissioner.

Based on the cumulative score from both steps in the evaluation process, Robert Swayze was identified as the successful proponent subject to City Council approving his appointment and execution of the service provider agreement. Based on the evaluation process that occurred, Robert Swayze is the service provider recommended by staff for appointment as the Integrity Commissioner.

Mr. Swayze is one of the longest serving municipal integrity commissioners in Ontario and a founding member of the Municipal Integrity Commissioners Association of Ontario. He is serving in this role or has served in this role for many Ontario municipalities including:

- City of Mississauga,
- City of Guelph,
- Town of Oakville,
- City of Sarnia,
- Town of Wasaga Beach,
- County of Essex,
- Region of Peel,
- Town of Bracebridge,
- Town of Huntsville,
- Town of Carleton Place, and
- Municipality of Port Hope.

He has extensive experience providing advice to municipal councils, individual council and board members and providing written reports, including advising on codes of conduct.

In addition to serving as a municipal integrity commissioner, Mr. Swayze is a practicing lawyer with expertise in municipal law which staff anticipate will provide him the necessary insight into municipal governance and operations to navigate complex Council and Local Board member conduct issues. Mr. Swayze's curriculum vitae is attached as Schedule "A" to this report.

Mr. Swayze's bid which included an annual retainer was the lowest bid received by the City.

NEXT STEPS

Subject to the adoption of the recommendation above, staff will execute the service provider agreement with Mr. Swayze for the Integrity Commissioner services effective December 1, 2018. Once the contract is executed, staff will provide a draft code of conduct to Mr. Swayze for review and feedback. Staff anticipate bringing the draft code of conduct and Integrity Commissioner Complaint Protocol to City Council in the fall of 2018.

REFERENCES

Report of the General Manager of Corporate Services, *Implementation of an Integrity Commissioner*, dated January 23, 2018:

<http://agendasonline.greatersudbury.ca/index.cfm?pg=feed&action=file&agenda=report&itemid=6&id=1234>

CURRICULUM VITAE

OF

ROBERT J. SWAYZE

Barrister & Solicitor

Certified by the Law Society of Upper Canada as a specialist in Municipal Law:
Local Government and Land use Planning and Development

20736 Mississauga Road
Caledon, ON
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(519) 942-0070 (b)
(519) 942-1233 (f)

- EDUCATION:** University of Western Ontario - Bachelor of Arts, 1962
Osgoode Hall Law School - Bachelor of Laws, 1965
Called to the bar, 1967
- PRACTICE OF LAW:** Initially in private practice in Toronto as Solicitor for municipalities, Ratepayers and corporations with his personal practice restricted to municipal law and including development of land in the Toronto area; Appearances before Councils, local boards and the Ontario Municipal Board throughout the Province; Acting as corporate solicitor and board member for a wide variety of corporations. In private practice in Toronto, Markham and Caledon, except for nine years as Commissioner of Corporate Services/Town Solicitor for the Town of Markham (88-97) and three years as Commissioner of Legal & Administrative Services/City Solicitor for the City of Vaughan (03-06).
- LAW FIRMS:** Rohmer, Cory, Morris & Haley, Toronto - 1965 - 1969
Rohmer & Swayze, Toronto- 1969 - 1972
Swayze & Holmes, Toronto - 1972 - 1985
Tilley, Carson & Findlay, Toronto - 1985 - 1988
Robert J. Swayze, Markham - 1997 – 2003
Robert J. Swayze, Caledon - 2006 - .
- MUNICIPALITIES:** Town of Markham - Commissioner of Corporate Services/Town Solicitor - 1988 - 1997

City of Vaughan - Commissioner of Legal &
Administrative Services/City Solicitor - 2003 – 2006

CURRENT LAW PRACTICE:

2006 – 2016

- Appointed Integrity commissioner for Oakville in 2008
- Appointed Integrity Commissioner for the City of Guelph in 2011
- Appointed Integrity Commissioner for Port Hope, Carleton Place and Mississauga in 2012
- Appointed Integrity Commissioner for the Township of South Dundas in 2013
- Appointed Integrity Commissioner for the City of Sarnia the Town of Wasaga Beach, the County of Essex and the Township of Muskoka Lakes. in 2015
- Appointed Integrity Commissioner for Brampton in 2014 and as Lobbyist Registrar in 2016.
- Appointed Integrity Commissioner for Peel Region, Bracebridge, Lake of Bays and Huntsville in 2017.
- Represented The Integrity Commissioners of Ontario in submissions to Provincial Staff on changes to municipal legislation.
- Extensive consultation with the Ontario Ombudsman on its municipal mandate in 2016.
- Acting on behalf of municipalities in Ontario Municipal Board hearings,

Previous experience includes:

2003 – 2006

As Commissioner of Legal & Administrative Services/City Solicitor for the City of Vaughan, responsible for the Legal Department, Clerks

Department, By-law Enforcement and commencing in 2004, Human Resources.

1997 – 2003

In private practice in Markham acting for municipalities, ratepayers and land developers, restricting his practice to municipal matters, including general municipal advice, development agreements, development charge advice and OMB hearings. Representing clients such as:

- City of Vaughan in various matters including three major Ontario Municipal Board matters involving several thousand acres of land and in the preparation of their Development Charge By-law.
- Town of Markham in several OMB hearings and other matters
- Toronto Airways Limited in negotiating with three levels of government and the Greater Toronto Airports Authority resulting in the execution of a ten year funding agreement for Toronto Buttonville Airport.
- City of Hamilton in the enactment of a Development Charge by-law and preparation of a Service in Lieu Agreement providing for the sharing of the cost of a trunk sewer between private developers and the City for conducting leechate from a municipal landfill.

1988 TO 1997:

As Commissioner for the Town of Markham and Town Solicitor, progressively assumed responsibility for the Legal Department, By-law Enforcement & Licensing (1991), Clerks Department (1992), Toronto Buttonville Airport (1993), Human Resources Department (1993-1995), Financial Services Department and Information Technology Department (1994).

1967 TO 1988:

In private practice representing clients such as:

- Bramalea Limited in the development of lands in the Brampton, Markham and Pickering areas, securing approvals for residential units for over 150,000 people,

2000 acres of industrial development and commercial uses including a regional shopping centre.

- Metro Centre Developments Limited (a joint venture of CNR and CPR) in its planned development of 186 acres of railway lands in the Toronto core.
- CN Tower Limited in respect of the construction of the CN Tower.
- Olympia & York Developments Limited in the development of five downtown Toronto office projects.
- Ontario Housing Corporation in its development of a 5,000 acre mixed use community in Scarborough.
- On behalf of the Ontario operations of Nu-West Group Ltd., during the period in the 1980's when it was Canada's largest home builder, in the acquisition, development and sale of land and income property in Ontario.

Also represented major non-real estate corporations as Solicitor and development consultant, such as: Canadian General Electric, Manufacturers Life and the Bank of Nova Scotia.

PARTICIPATION:

- Instructor and lecturer, Bar Admission Course 1969-1975.
- Member, Canadian Bar Association and International Municipal Lawyers Association.
- Past Vice-Chairman, Planning & Urban Affairs Committee, Metropolitan Toronto Board of Trade.
- Lectured and conducted Seminars at Law Schools, Canadian Institute of Planners, Canadian Institute, Toronto Real Estate Board, Greater Toronto Homebuilders, etc.

- Past Vice-President and Director, North Toronto Hockey Association.
- Director, Nu-West Group Limited 1979-1983.
- Director, Toronto Buttonville Municipal Airport (Markham) Inc., 1992 - 1997
- Director, Varley McKay Art Gallery Foundation Inc., 1992- 1997