



Municipality of Brighton

Council Meeting

Council Date: 15 Aug 2016

To: Council

Prepared By: Bill Watson

Reviewed By:

Department: CAO

Subject/Title: Proposal to appoint John Ewart as Integrity Commissioner

Recommendation:

That Council authorize the clerk to prepare a by law and direct the Mayor and Clerk to sign the agreement with Ewart /O`Dwyer to appoint John Ewart as the Municipality of Brighton`s Integrity Commissioner

Background/Purpose:

The municipality is required to appoint an integrity commissioner to oversee issues of corporate governance and appropriate behaviour in regard to the conduct of municipal business in the public domain. Failure to do so will result in issues being referred to the Provincial Government for review and judgement. It is more favourable to have an appointed designate as they are available for reference and advice when council and staff are unclear on a course of action.

Analysis/Comments:

The attached proposal outlines the details of the proposed arrangement and the costs associated. Staff feel that having the integrity commissioner on retainer could be very helpful to staff and council in interpreting legislation and determining a course of action when in doubt. Mr Ewart is recognized as having considerable expertise in municipal governance and legislative rules, his firm is relatively local and he can be available in person or by telephone when convenient.

Financial Implications:

The hourly fee of \$275 is outlined in the proposal, depending on activity staff estimate the annual cost to be under \$15,000 per year, extra costs would be dependent on how often we might call on the proponent for advice and expertise.

Strategic Plan Alignment:

None



EWART

O'DWYER

PLEASE REFER REPLY TO: M. JOHN EWART

BY EMAIL

July 27, 2016

Municipality of Brighton
35 Alice Street, P.O. Box 189
Brighton, Ontario
K0K 1H0

Attention: Bill Watson, Chief Administrative Officer

Dear Mr. Watson:

Re: Appointment of Integrity Commissioner – Section 223.3 – *Municipal Act, 2001*, as amended
Our File Number: 1744-002

This letter will serve to confirm our recent email correspondence with respect to the appointment of the writer as Integrity Commissioner to address the application of Code of Conduct for elected officials for The Corporation of the Municipality of Brighton.

Section 223.3 of the *Municipal Act, 2001*, as amended, enables a municipality to appoint an Integrity Commissioner to address the application of the Code of Conduct. In addition, the legislation provides that the Integrity Commissioner can be delegated any or all policy matters surrounding the enforcement of Codes of Conduct for elected officials and/or members of local boards.

In accordance with Section 223.4, an Integrity Commissioner has the power to deal with requests to investigate suspected contraventions of the Code of Conduct and gives the commissioner free access to all records of the municipality, councillor, or local board that the commissioner believes is necessary to investigate an inquiry. Section 223.4 of the Act further specifies that the Integrity Commissioner may recommend the penalties should there be a determination that a contravention has occurred. Such penalties could include a reprimand and/or suspension of the remuneration of the local board or council member for a period up to ninety (90) days as provided for by the Act.

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**M. John Ewart Certified by the Law Society as a Specialist in Municipal Law – Local Government/Land Use Planning and Development*

In performing the role of Integrity Commissioner, there are four (4) separate components that can be termed as follows:

1. Advisory

The Integrity Commissioner will provide written and/or oral advice to individual members of Council about their own situation respecting Code of Conduct and other by-laws/policies governing the ethical behaviour of members, including general interpretation of the *Municipal Conflict of Interest Act* and providing the full Council with specific and general opinions and advice respecting compliance by elected officials with the provision of governing Acts and other conduct policies.

2. Complaint Investigation

The Integrity Commissioner will have the power to assess and investigate complaints made to the Commissioner from a member of Council and/or public or the whole of Council, all in accordance with the provisions of the Section 223.4 of the *Municipal Act, 2001*.

3. Complaint Adjudication

An Integrity Commissioner has the power to determine whether a member of Council has in fact violated a municipal protocol, a by-law or policy governing their ethical behavior and to recommend a penalty as prescribed by the *Municipal Act* as set out above, except that Council shall make the final decision on whether any penalty recommended is imposed on the member found to be in contravention.

4. Education

An Integrity Commissioner is at liberty to publish an annual report on findings on typical advice and complaint cases, will provide, as required, outreach programs to members of Council and staff on legislation, protocols and office procedures emphasizing the importance of ethics for public confidence in municipal government; and will disseminate information regarding the Office of the Integrity Commissioner to the public as directed by Council.

The writer would welcome the opportunity to serve as Integrity Commissioner as well as Ombudsman and Closed Meeting Investigator for The Corporation of the Municipality of Brighton and to provide assistance with respect to any of the above four (4) components as identified above or as Council otherwise directs.

As is our practice when providing legal services to municipal corporations our hourly rate would be \$275.00 per hour together with any applicable disbursements and H.S.T.

Please advise if you require any additional information with respect to this matter. Again, I thank you for the opportunity to assist the Municipality of Brighton in this role.

Very truly yours
EWART O'DWYER

A handwritten signature in black ink, appearing to read 'M. John Ewart', written in a cursive style.

M. John Ewart
/cdw