
Subject: Appointment of Interim Integrity Commissioner

Report to: Regional Council

Report date: Thursday, June 24, 2021

Recommendations

1. That Michael L. Maynard of ADR Chambers Inc., **BE APPOINTED** Interim Integrity Commissioner until such time as a new Integrity Commissioner is appointed pursuant to a Request for Proposal process to be undertaken;
2. That By-law 2017-61, being a by-law to appoint an Integrity Commissioner for The Regional Municipality of Niagara, **BE REPEALED**;
3. That staff **BE DIRECTED** to initiate a Request for Proposal process for Integrity Commissioner services for Niagara Region and report back upon completion of the process with a recommendation for award/appointment; and
4. That the necessary by-law to appoint an Interim Integrity Commissioner **BE PREPARED** and **PRESENTED** to Council for consideration.

Key Facts

- The purpose of this report is to seek Council's approval to appoint an interim Integrity Commissioner and initiate a Request for Proposal for Integrity Commissioner services.
- On July 6, 2017, Regional Council appointed Edward T. McDermott of ADR Chambers Inc., as the Integrity Commissioner for Niagara Region as a result of a competitive RFP process (2017-RFP-15) for an initial term commencing August 16, 2017 and ending on March 31, 2019, with an option to extend for an additional four year period.
- On January 17, 2019, Regional Council approved an extension of the current contract with ADR Chambers Inc., for Mr. McDermott to continue as Integrity Commissioner until March 31, 2023.
- On May 21, 2021, Mr. McDermott advised the Regional Chair of his intention to retire from his position as Integrity Commissioner for Niagara Region effective May 31, 2021. Given the timing of Mr. McDermott's notice and Council's schedule, Mr. McDermott agreed to continue in his office until June 24, 2021.

- The appointment of an interim Integrity Commissioner is necessary to allow sufficient time for a competitive procurement process to be undertaken for Integrity Commissioner services and to ensure continued access to a publically available accountability officer to support the Code of Conduct complaint process.

Financial Considerations

Integrity Commissioner services are billed to the Region on an hourly rate when utilized and vary depending on how often the services are used and this arrangement would remain in place during the term of the interim Integrity Commissioner.

Expenditures incurred for investigations, advice and/or reports by the Integrity Commissioner are expensed through the Clerk's Office yearly operating budget.

Analysis

The role of the Integrity Commissioner is set out in Part V.1 of the Municipal Act, 2001 (the Act). In addition to enforcing and providing advice related to the Code of Conduct for Members of Council, the Integrity Commissioner is also responsible for investigations related to conflicts of pecuniary interest in accordance with Section 223.4.1(1) of the Act and to provide advice to members of Council regarding the Municipal Conflict of Interest Act. The Integrity Commissioner is required to report to Council and is responsible for performing, in an independent manner, the functions assigned by the municipality with respect to the application of the code of conduct.

On July 6, 2017, Regional Council approved the appointment of Edward T. McDermott as the Integrity Commissioner for Niagara Region following a competitive RFP process (2017-RFP-15) for integrity services for an initial term commencing August 16, 2017 and ending on March 31, 2019, with an option to extend for an additional four year period. Since that time, Mr. McDermott has been performing the services of Integrity Commissioner.

On May 21, 2021, Mr. McDermott provided notice to the Regional Chair of his intention to retire from his position as Integrity Commissioner for Niagara Region effective May 31, 2021. In discussion with staff, Mr. McDermott agreed to continue in his office until June 24, 2021 in order to allow a report to be brought forward to Regional Council and has further confirmed his availability to support an orderly transition of the matters currently under investigation.

The current agreement with ADR Chambers Inc., is specifically for the provision of integrity services using Mr. McDermott given his unique qualifications and experience combined with the available support systems of ADR, as evaluated pursuant to the RFP process undertaken.

In light of Mr. McDermott's resignation and in order to ensure the continuity of Integrity Commissioner services, staff recommend an interim Integrity Commissioner be appointed to allow for a competitive procurement process be undertaken to secure a permanent Integrity Commissioner.

ADR Chambers Inc., and Mr. McDermott recommend Michael Maynard for appointment as an interim Integrity Commissioner based on his qualifications and experience with investigations (including related to Niagara Region). Mr. Maynard has mediated more than 2,000 private and public disputes and is the ADR Chambers Integrity Commissioner for the Durham District School Board and an investigator for the ADR Chambers Office of the Integrity Commissioner for Ontario municipalities. He is also an investigator for the ADR Chambers Ombuds Office for banking and municipal matters. His qualifications and experience are outlined in Appendix 1. Given Mr. Maynard's qualifications, experience and his past work on code of conduct complaints for the Region, staff are recommending his appointment as Interim Integrity Commissioner.

Alternatives Reviewed

In accordance with the legislation, Council must have an Integrity Commissioner appointed or shall make arrangements for all of the responsibilities under Section 223.3(1) of the Act, to be provided by a Commissioner of another municipality. The current Integrity Commissioner was appointed following a competitive procurement process undertaken in 2017. In light of his resignation, it is being recommended that a competitive procurement process be undertaken to secure permanent integrity commissioner services for the Region.

Relationship to Council Strategic Priorities

By ensuring the continuity of Integrity Commissioner services, the public can be assured that an independent body is in place, as required by legislation, to support members of Council in interpreting the Code of Conduct and the Municipal Conflict of Interest Act. The continued appointment of an Integrity Commissioner will ensure access to a publically available accountability officer to support the Code of Conduct complaint

procedure and process and aligns to Council's strategic priority of a sustainable and engaging government.

The Integrity Commissioner is also responsible for providing education as part of their services, such as the preparation of an annual report to Council which is a further opportunity to increase public awareness of Council's obligations under the Code of Conduct and the Municipal Conflict of Interest Act.

Other Pertinent Reports

GM 2-2017 Award of Request for Proposal for Integrity Commissioner Position for the Niagara Region

CLK 3-2019 Extension of Integrity Commissioner Contract

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P. Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services, and Jeff Mulligan, Procurement Manager.

Appendices

Appendix 1 Michael L. Maynard Resume