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**REPORT TITLE: Integrity Commissioner and Lobbyist Registrar Appointment Process**

**FROM:** Gary Kent, CPA, CGA, ICD.D, Chief Financial Officer and Commissioner of Corporate Services

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## **RECOMMENDATION**

**That the Regional Council Policies and Procedures Committee provide direction to staff regarding the preferred option to appoint an Integrity Commissioner and Lobbyist Registrar at the expiration of the current contract on January 31, 2023.**

## **REPORT HIGHLIGHTS**

- The *Municipal Act, 2001*, as amended, (the Act) authorizes a municipality to appoint an Integrity Commissioner and a Lobbyist Registrar.
  - If a municipality does not appoint a Commissioner, the municipality shall make arrangements for the responsibilities set out in the Act to be provided by a Commissioner of another municipality.
  - The current contract with Principles Integrity for Integrity Commissioner and Lobbyist Registrar services, will expire on January 31, 2023.
  - RFP Document # 2017-514P (Appendix II) outlines the details of the original request.
  - An Request for Proposal (RFP) process must be initiated in 2022 in order that a decision regarding a new contract can be approved before January 31, 2023.
  - The decision to award a new contract may be made by the current Council or the new Council as elected for the 2022-2026 term.
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## **DISCUSSION**

### **1. Background**

#### **a) Supporting Legislation and Responsibilities of the Integrity Commissioner and Lobbyist Registrar**

Section 223.3 (1) of the *Municipal Act, 2001*, as amended (the Act) authorizes a municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to any or all of the following:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.

## **Integrity Commissioner and Lobbyist Registrar Appointment Process**

3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. 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.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The 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*. 2017, c. 10, Sched. 1, s. 19 (1).

If a municipality has not appointed a Commissioner, the municipality shall make arrangements for all of the responsibilities set out above to be provided by a Commissioner of another municipality.

Section 223.9 (1) of the Act authorizes a municipality to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders. Section 223.11 (1) authorizes a municipality to appoint a Registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry and the system of registration and other matters described in subsection 223.9 (2).

### **b) Previous Process to Appoint the Integrity Commissioner and Lobbyist Registrar**

On September 24, 2015, Council established the "Lobby Registry and Integrity Commissioner Committee" (the Committee) to work with staff to review and advise on the process to establish a Lobbyist Registry and a Gift Registry, and to retain an Integrity Commissioner. The Committee made recommendations regarding content to be included in a Lobby Registry By-law and revisions to the Council Code of Conduct. The Committee was not involved in the selection of the Integrity Commissioner and Lobbyist Registrar.

On October 13, 2016, Council approved a resolution to enact By-law 47-2016 establishing a Lobby Registry and Registration System, effective March 1, 2017 (Appendix I); authorizing the Director of Purchasing to directly negotiate and retain the services of an Integrity Commissioner and Lobbyist Registrar for a short term contract; and, directing the Chief Administrative Officer to report back to Council on the outcome of a process for retaining an Integrity Commissioner and a Lobbyist Registrar for a term of three years to commence at the end of the short term contract.

On February 23, 2017, Robert J. Swayze was appointed as the Integrity Commissioner and Lobbyist Registrar for a six month period, with an option to extend for an additional six months. The appointment was an interim measure pending the award of the City of Brampton's Request for Proposal (RFP) which included the potential for provision of services to both Brampton and the Region of Peel.

On October, 12, 2017, Council received an update report advising that staff had reviewed Brampton's award to Fasken Martineau DuMoulin LLP (Fasken) and unsuccessfully attempted to obtain similar terms for provision of services by Fasken to

## **Integrity Commissioner and Lobbyist Registrar Appointment Process**

Peel. The report also advised that a Request for Proposal, RFP Document # 2017-514P (Appendix II) was issued to retain an Integrity Commissioner and Lobbyist Registrar for a three year contract (with two optional 12-month periods) commencing February 1, 2018. The RFP was publicly advertised and posted on the Region of Peel and the Ontario Public Buyers Association websites. Mr. Swayze's contract was extended pending the outcome of the RFP.

On January 11, 2018, staff reported on the results of the RFP process noting that three compliant vendor submissions were received; an evaluation committee (consisting of staff) had reviewed the submissions in accordance with set criteria (see section 8 "Evaluation Process", of RFP Document # 2017-514P included as Appendix II); and, that Principles Integrity received the highest overall score on both criteria and pricing. Council approved By-law 5-2018 (Appendix III) appointing the partnership of Principles Integrity, through its principals Jeffrey A. Abrams and Janice Atwood-Petkovski, as the Region of Peel's Integrity Commissioner for the provision of Integrity Commissioner services and for Lobbyist Registrar services, with an effective date of February 1, 2018.

### **c) Expiration of the Current Contract**

Principles Integrity's three year contract (effective on February 1, 2018) reserved the right for the Region of Peel to extend the contract for two additional 12-month periods based on the same terms and conditions. The second and final contract extension will expire on January 31, 2023.

## **2. Process to Appoint an Integrity Commissioner and Lobbyist Registrar for the Period beginning February 1, 2023**

Regional Council is required to appoint an Integrity Commissioner (or to make arrangements for all responsibilities set out in the Act to be provided by a Commissioner of another municipality), to come into effect at the expiration of the current contract on January 31, 2023. The decision to award a new contract may be made by the current Council or the new Council as elected for the 2022-2026 term.

### Environmental Scan

Staff completed an environmental scan of 14 municipalities to determine if other municipalities tie their Integrity Commissioner contracts to the term of Council, and if the Integrity Commissioners are appointed by the new Council or the out-going Council. Of the five responding municipalities, all indicated they do not tie the contract to the term of Council. Two of the five municipalities do appoint the Integrity Commissioner by the new Council and the remaining three municipalities have overlapping contract periods that do not coincide with appointment by the new Council.

### Request for Proposal (RFP) Process

An RFP, similar to the original process outlined above and with specifications as provided in the original RFP Document # 2017-514P (Appendix II) should be initiated in 2022 in order that a decision can be made before expiration of the contract. It is proposed that a staff evaluation committee would review and weigh vendor submissions using a matrix for a two phase evaluation based on the set criteria (e.g., experience and qualifications, references, advisory and educational approach) and pricing.

## **Integrity Commissioner and Lobbyist Registrar Appointment Process**

Staff could either report back to the Regional Council Policies and Procedures Committee (PPC) with a summary of the evaluation outcomes for the PPC's review before the final recommendation is provided to the current Council; or, staff could report directly to the newly elected Council. Draft timelines for both options are provided below.

Alternatively, the PPC could serve as the evaluation committee to review and weigh vendor submissions using a matrix for a two-phase evaluation based on the set criteria (e.g., experience and qualifications, references, advisory and educational approach) and pricing. Staff would support and facilitate the review.

### **Option 1 - Decision by the Current Council with Review by the PPC (Draft Timeline)**

An RFP process should be issued to market by end of May 2022, to ensure that interviews could be completed by July 2022; a recommendation report brought to the PPC (or to Council if the PPC serves as the evaluation Committee); a recommendation from PPC to Council on September 22, 2022; and, a contract and appointment by-law would need to be approved on September 22, 2022, to come into effect on February 1, 2023.

### **Option 2 - Decision by the New Council with Staff Reporting directly to Council (Draft Timeline)**

An RFP process should be issued to market by end of September 2022 to ensure that interviews could be completed by November 2022; a report be brought directly to Council by December 8, 2022; and, a contract and appointment by-law would need to be approved before January 31, 2023 to come into effect on February 1, 2023.

## **RISK CONSIDERATIONS**

An Integrity Commissioner and Lobbyist Registrar appointment is required to comply with provincial legislation and will ensure continued transparency and accountability at the Region of Peel.

## **FINANCIAL IMPLICATIONS**

Integrity Commissioner and Lobbyist Registrar services, under a new contract commencing on or about February 1, 2023, and costs associated with the services will be included in the 2023 operating budget submission for Corporate Services. It is anticipated that the existing operating budget contains sufficient funds for the new contract.

## **CONCLUSION**

The current contract for the Region of Peel Integrity Commissioner and Lobbyist Registrar will expire on January 31, 2023. The process to appoint a new Commissioner and Registrar must be initiated in 2022 in order to appoint a new Commissioner and Registrar before February 1, 2023.

Direction is required from the Regional Council Policies and Procedures Committee regarding the preferred option and timeline to either have the PPC review the process with the current Council approving a contract before the end of the current term of Council; or, that the decision be approved by the new Council at the beginning of the 2022-2026 term.

## **Integrity Commissioner and Lobbyist Registrar Appointment Process**

### **APPENDICES**

Appendix I - By-law 47-2016, Establishment of a Lobbyist Registry

Appendix II – Original RFP Document # 2017-514P

Appendix III – By-law 5-2018, Appointment of Principles Integrity as Integrity Commissioner and Lobbyist Registrar

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*Authored By: Jill Jones, Legislative Specialist*