

## ADMINISTRATIVE REPORT

**Subject: Appointment of Closed Meeting Investigator and Integrity Commissioner**

**Date: June 13, 2022**

**To: Mayor and Council**

**From: Gabrielle Lecuyer, Municipal Clerk**



### ISSUE:

Appointment of Closed Meeting Investigator / Integrity Commissioner

### ADMINISTRATIVE RECOMMENDATION:

THAT Council received a Report from the Municipal Clerk, regarding the appointment of the Town of Fort Frances Municipal Integrity Commissioner, and Closed Meeting Investigator;

AND THAT Council direct Staff to proceed with (1) one Request for Proposals (RFP) in order to start the process for the appointment of a Integrity Commissioner and Closed Meeting Investigator for the Town of Fort Frances; and

AND FURTHER Council direct Staff that upon the close of the Request for Proposal that Staff bring forward a report to Council for decision to provide an overview and recommendation for the appointment of a Integrity Commissioner and Closed Meeting Investigator for the Town of Fort Frances

### STRATEGIC IMPACT:

Complimenting imperative number 7 in the Strategic Plan of Complete review of governance model and key procedures which incorporate accountability and transparency requirements in the overall governance.

### OPTIONS & ALTERNATIVES:

1. Council may discuss alternative option in terms of having an Integrity Commissioner and the Ombudsman as the Closed meeting investigator
2. Council may discuss having 2 separate RFP's (1) for the close meeting investigator and (1) for the Integrity Commissioner

### HISTORY:

Closed Meeting Investigator

- In January 2008, new changes to the Municipal Act came into effect allowing Ontarians to lodge an official complaint requesting that an investigation be undertaken to determine whether a municipality has complied with the open meeting requirements outlined in Section 239. of the Municipal Act, or the municipality's procedural by-law relating to any meeting or part of a meeting that was closed to the public.
- The investigation must be undertaken by an Investigator appointed by the municipality pursuant to Sections 9, 10, 11, and 239.2 of the Act or by an Ombudsman appointed pursuant to the Ombudsman Act if the municipality has not appointed an Investigator.
- The Ombudsman handles complaints in all municipalities except those that have appointed their own Investigators.
- On January 15, 2008, Council approved an agreement with Paul Heayn for his services as a meeting investigator as provided under the Municipal Act, 2001. Mr. Heayn has been the Closed Meeting Investigator for the Town of Fort Frances from 2008 to present.
- On February 25, 2019 By-Law 05-19 appointed Mr. Heayn as the Integrity Commissioner pursuant to subsection 223.3 (1) of the Municipal Act, 2001 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.

### ANALYSIS:

- The term for both agreements (closed meeting investigator & Integrity Commissioner) with Mr. Heayn will terminate on December 31, 2022
- Being June and a busy few months ahead with the Election and a new Council Orientation, Council should discuss their plans to fill these roles. It is recommended to move forward with a single RFP to streamline this process
- Though another option for the closed meeting investigator such as having the Ombudsman conduct inquiries which is at no cost to the Municipality, this is not an option Staff is recommending for the following reasons:
  - The Ombudsman search can really branch out beyond the scope of the closed meeting complaint. Though on its face it may appear that there are no cost for the Ombudsman to investigate, these types of investigation can require additional resources to address all issues should they arise whereas a third party is independent, impartial and provides credible investigations and reports directly relating to closed session only and understanding that both the Ombudsman and a Third Party are focused on municipal transparency and accountability.
  - The powers of the Ombudsman with respect to closed meeting complaints as set out in the Ombudsman Act – include the power to issue summonses, inspect premises and compel municipal officials and staff to provide information and documents far greater powers than a appointed Closed Meeting Investigator

- The value and the quality a third party can bring is also to provide and ensure an educational component to help municipalities both Council and Staff to maintain compliance and keeping up with the times and the changing legislation they can be a valuable with often quick resource and turnaround time when required
- It is important to note that the RFP will be created in such a way to ensure a strong legal background and credentials in the Municipal World to ensure we have the skills we are looking for in both an Integrity Commissioner and Closed Meeting Investigator.

**CONSULTATION:**

N/A