

FORMAL REPORT

To:	Mayor Strathdee and Members of Council
Prepared by:	Trisha McKibbin, Director of Corporate Services / Deputy Clerk
Date of Meeting:	12 December 2017
Subject:	COR 42-2017 Appointment of an Integrity Commissioner

PURPOSE

This report provides background information on the role of an Integrity Commissioner, the legislative requirements to have one as well as the joint RFP process undertaken by the County of Perth, South Perth, West Perth and the Town of St. Marys.

RECOMMENDATION

THAT report COR 42-2017 Appointment of an Integrity Commissioner be received; and

THAT Council appoint Aird & Berlis LLP as the Town of St. Marys Integrity Commissioner, and;

THAT Council approve By-law 110-2017 authorizing the Mayor and CAO/Clerk to enter into an agreement with Aird & Berlis LLP for the delivery of Integrity Commissioner services.

BACKGROUND

At the July 25, 2017 Council meeting staff brought forward report COR 29-2017 Bill 68 – Modernizing Ontario’s Municipal Legislation Act. In November of 2016 the government introduced Bill 68, the *Modernizing Ontario’s Municipal Legislation Act*, which introduced a series of reforms to the *Municipal Act*, *Municipal Conflict of Interest Act* and the *Municipal Elections Act*, and several other pieces of municipally-relevant legislation. On May 30, 2017 Bill 68 received Royal Assent.

With the passing of Bill 68, Council is required to appoint an Integrity Commissioner or make arrangement for all of the responsibilities to be provided by an Integrity Commissioner of another municipality.

Integrity Commissioners have new powers to conduct inquiries about whether members have contravened the *Municipal Conflict of Interest Act (MCIA)*.

- An elector or a person demonstrably acting in the public interest could apply to the Commissioner for an inquiry (this is a change from “any person” which was proposed in the Bill when it was introduced).
- Upon completion of an inquiry, a Commissioner could decide to bring the matter to court.
- Costs of applying to a judge would be paid by the relevant municipality or local board.
- As is currently the case, it would be up to the judge to decide whether the member has contravened the MCIA.

At the July 25, 2017 Regular Council meeting, Council approved the recommendation:

THAT staff be directed to partner with municipalities in the County of Perth on a joint RFP to secure an Integrity Commissioner for the Town of St. Marys.

Staff worked with the Clerks from Perth County, South Perth and West Perth on a joint Request for Proposals for Integrity Commissioner Services. On September 22, 2017, the County of Perth issued RFP No: 2017-100-01 to provide for the services of an integrity commissioner with a return date of October 6, 2017. Six firms replied to the request for proposal and were subsequently reviewed by the Clerks of the County of Perth, West Perth, Perth South and St. Marys.

REPORT

The four Clerks met with the Michelle Svartsjo, Perth County Procurement Coordinator on Friday, October 25, 2017 to review the proposals.

In the evaluation of the RFPs, significant weighting was given to qualifications and experience as related to investigations and investigative procedures and principles; general municipal knowledge; knowledge of Ontario municipal law; with public and media relations experience being considered an asset under the criteria of value added. Respondents were invited to demonstrate how their previous experience aligns with the role of the proposed integrity commissioner. Each of the respondents was asked to provide specific examples of investigative experience, general municipal knowledge, and knowledge of municipal law.

The following chart contains a summary of costing based on 20 hours of time per year and assuming one annual training session of 7 hours a year.

Costing Breakdown								
	Retainer	Hourly Rate	Time	Mileage	Each way	Annual Total	Annual Training	Annual Total with Training
ADR Chambers	\$ 1,200	\$ 275	\$ 5,500	\$ 150	150 km, .50 c/km	\$ 7,308	\$ 1,925	\$ 10,300
Aird & Berlis	\$ -	\$ 360*	\$ 7,200	\$ 135	150 km, .45 c/km	\$ 7,965	\$ 4,200	\$ 12,300
MNP LLP	\$ -	\$ 280	\$ 5,600	incl.	included	\$ 5,833	\$ 1,960	\$ 8,260
Tracey Pilon-Abbs	\$ 20,000	\$ 150	\$ 3,000	\$ 543	522 km, .52 c/km	\$ 23,125	\$ 1,050	\$ 24,425
Principles Integrity	\$ 1,000	\$ 230	\$ 4,600	\$ 146	140 km, .52 c/km	\$ 5,792	\$ 1,610	\$ 7,785
Robert Swayze LLP	\$ 1,000	\$ 280	\$ 5,600	\$ 148	142 km, .52 c/km	\$ 6,833	\$ 1,960	\$ 9,260

* The hourly rate is a blended rate of 20/40/40/ split between the lawyer and the associates, as \$600, \$305, \$295 respectfully.

While Aird & Berlis LLP does not propose the lowest rate, they were ranked the highest by all four participating municipalities. Aird & Berlis LLP was selected as the preferred candidate due to their broad experience with both large and small municipalities, their experience with investigations, mediation and adjudication and they clearly detailed their Service Plan for interaction with the Clerk and Council in the event of an investigation. They provided a comprehensive proposal which demonstrated their experience with a range of investigations on a wide variety of issues.

At the November 16, 2017 regular Council meeting for the County of Perth, County Council passed a bylaw to appoint Aird & Berlis as the Integrity Commissioner for the County of Perth. The municipalities of West Perth and Perth South are considering the recommendation to appoint Aird & Berlis at their Council meetings in early December. Once the four participating municipalities have decided whether or not to secure Aird & Berlis as their Integrity Commissioner a Master Service Agreement will be entered into which will include a Statement of Works for each municipality and County. The Master Service Agreement would allow for all participating parties to execute the agreement.

SUMMARY

With the passing of Bill 68, Council is required to appoint an Integrity Commissioner or make arrangement for all of the responsibilities to be provided by an Integrity Commissioner of another municipality. Integrity Commissioners have new powers to conduct inquiries about whether members have contravened the *Municipal Conflict of Interest Act (MCIA)*.

Staff worked with the Clerk's from Perth County, Perth South and West Perth on a joint Request for Proposals for Integrity Commissioner Services. Six firms replied to the request for proposal and were subsequently reviewed by the Clerks, and Aird & Berlis LLP was ranked the first choice by all four municipalities. Staff is seeking Council's direction to enter into an agreement with Aird & Berlis LLP to secure integrity commissioners services.

FINANCIAL IMPLICATIONS

If Aird & Berlis LLP is the successful proponent for Integrity Commissioner Services the estimated expense for an investigation is \$12,300.

STRATEGIC PLAN

☒ Not applicable to this report.

OTHERS CONSULTED

Carla Preston, Clerk – West Perth
Lizet Scott, Clerk – South Perth
Pat Taylor, Interim County Clerk, County of Perth

ATTACHMENTS

N/A

REVIEWED BY

Recommended by the Department



Trisha McKibbin
Director of Corporate Services

Recommended by the CAO



Brent Kittmer
CAO / Clerk