

From: Paul Bigioni
Director, Corporate Services & City Solicitor

Subject: Appointment of an Integrity Commissioner
- 2022 – 2026 Term of Council
- File: A-1440

Recommendation:

1. That Report CLK 04-22, regarding Appointment of an Integrity Commissioner, be received;
 2. That Council appoints Principles Integrity as Integrity Commissioner for the City of Pickering for the Term of Council commencing November 15, 2022, with the option to renew for an additional Council Term, subject to the Council of the Regional Municipality of Durham approving and authorizing the appointment of Principles Integrity in accordance with Section 223.3 of the Municipal Act as the Regional Municipality of Durham's Integrity Commissioner;
 3. That the draft By-law, included as Attachment #1 to Report CLK 04-22 to confirm the appointment of Principles Integrity as the provider of Integrity Commissioner services for the City of Pickering, be enacted;
 4. That subject to the enactment of the By-law to appoint Principles Integrity, that the Mayor and Clerk be authorized to execute an agreement with Principles Integrity, for Integrity Commissioner Services for the City of Pickering, consistent with the draft by-law and on terms satisfactory to the City Clerk and Director, Corporate Services & City Solicitor; and,
 5. That the appropriate City of Pickering officials be authorized to take the necessary actions as indicated in this Report.
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Executive Summary: The appointment of an Integrity Commissioner is a statutory requirement of the *Municipal Act*. Currently, The City retains Fasken Martineau Dumoulin LLP for its Integrity Commissioner services and the current contract expires at the end of this Term of Council on November 14, 2022.

To ensure that Pickering has an Integrity Commissioner in place once the term of the current Integrity Commissioner expires, staff seek Council's approval to appoint Principles Integrity for the 2022-2026 Term of Council, with the option to renew for an additional Term, subject to the Council of the Regional Municipality of Durham approving the appointment at that time.

Financial Implications: Principles Integrity charges an hourly rate of \$275.00, with a \$1,250.00 annual retainer fee to cover minor administrative costs and record keeping. The hourly rate is in line with what the City currently pays for Integrity Commissioner services, and staff are satisfied that it is commensurate with the level of experience and expertise that Principles Integrity will provide.

There is no specific budget line item within the approved 2022 Current Budget for Integrity Commissioner services, however, funds in the General Government Contingency Account would be available should there be a need to engage the services of the Integrity Commissioner. To date, the City has incurred few expenses related to the Integrity Commissioner. Should there be an increase in the usage of the services, staff will review and consider the budgetary requirements for inclusion in the 2023 and 2024 Current Budgets for the City.

Discussion: Pursuant to Subsection 223.3(1) of the *Municipal Act*, the Integrity Commissioner reports to Council and is responsible for performing, in an independent manner, the functions assigned by the municipality.

Integrity Commissioners carry out a range of functions for municipalities and their local boards. They assist in the development of the municipality's ethical framework by suggesting content or commentary for codes of conduct and conduct education and training for Members of Council. Integrity Commissioners also provide advice and guidance to Members of Council to help sort out ethical grey areas arising from the Code of Conduct or to confirm activities that support compliance, including those under with the *Municipal Conflict of Interest Act (MCIA)*. Additionally, the Integrity Commissioner investigates allegations against Members of Council for non-compliance with the Code of Conduct or the MCIA.

In 2016, the Region of Durham and some area municipalities undertook an RFP process for the selection of an Integrity Commissioner. As a result of that process, Guy Giorno, Fasken Martineau Dumoulin LLP, was selected as the Integrity Commissioner for the Regional Municipality of Durham and the City of Pickering, for a term beginning on January 1, 2017 and terminating at the end of the current term of Council (November 14, 2022).

With the current Integrity Commissioner contract expiring at the end of the Term of Council, it was necessary to conduct a selection process to ensure that Integrity Commissioner services are in place for the next Term. The Region of Durham, and local municipalities, have once again partnered on this initiative and are seeking approval to appoint Principles Integrity to carry out Integrity Commissioner services for the 2022-2026 Term of Council.

The process to secure Integrity Commissioner services for the next term of Council followed the Durham Region's Consultant and Professional Services Contracting Procedure. Invitations to enter into a consulting and professional services contract with the Region and local municipalities were sent to six individuals/firms. Three proposals were received and evaluated by the Region. Respondents also participated in presentation and interview sessions which were evaluated by the Region, with the addition of the Municipal Clerks from Oshawa, Pickering and Whitby. The successful submission was made by Principles Integrity.

Established in early 2017, Principles Integrity is a partnership operated by its principals Jeffrey Abrams and Janice Atwood-Petkovski, experienced municipal leaders, with over 35 years of experience working for municipalities in the fields of municipal law and governance, and now as Integrity Commissioners. Ms. Atwood-Petkovski previously worked as City Solicitor for two large Greater Toronto and Hamilton Area municipalities and Mr. Abrams as a Municipal Solicitor and Clerk in the Greater Toronto Area.

Through its submission to the Region, Principals Integrity summarized its mandate as Integrity Commissioner as follows:

“The emphasis of our firm is to help public bodies enhance their ethical foundations through the drafting of effective codes of conduct and other policies governing ethical behaviour, through the provision of meaningful education related to such policies, providing pragmatic binding advice to elected officials seeking clarification on ethical issues and governance issues, and by seeking to resolve matters when allegations of transgression are made. Where appropriate and necessary, formal investigations are conducted under the tenets of procedural fairness, with a keen focus on what best serves the public interest.

We exercise our authority in a manner that promotes good governance and effective, ethical solutions. When responding to a complaint, we exercise restraint and apply a solutions-oriented perspective, favouring teaching opportunities over sanctions. We have substantial expertise in the application of the Municipal Conflict of Interest Act and have compiled an effective codification of statutory and common law that assists elected officials in avoiding both real and apparent conflicts of interest while enabling them to carry out the duties for which they were elected.”

The appointment of an Integrity Commissioner was a coordinated effort among the Region of Durham and area municipalities. Appointing the same Integrity Commissioner as the Region allows the Region and City to undertake coordinated efforts to review the Council Codes of Conduct, and for the Mayor and Regional Councillors to seek advice from one source for matters that may come before both the City and Regional Councils.

Staff are seeking approval to appoint Principles Integrity for the 2022-2026 Term of Council, with the option to renew for an additional Term, subject to the Council of the Regional Municipality of Durham approving the appointment at that time. Should Council approve the appointment of Principles Integrity, the By-law will take effect on November 15, 2022.

Attachments:

1. Draft By-law to Appoint Principles Integrity as the City of Pickering’s Integrity Commissioner
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Prepared By:

Original Signed By:

Susan Cassel
City Clerk

Approved/Endorsed By:

Original Signed By:

Paul Bigioni
Director, Corporate Services & City
Solicitor

Recommended for the consideration
of Pickering City Council

Original Signed By:

Marisa Carpino, M.A.
Chief Administrative Officer

The Corporation of the City of Pickering

By-law No. XXXX/22

Being a by-law to confirm the Appointment of Principles Integrity as the Integrity Commissioner for the City of Pickering

Whereas Section 223.3 of the *Municipal Act, 2001, S.O. 2001, c. 25*, 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;

And Whereas the current contract for Integrity Commissioner services for the City of Pickering will expire on November 14, 2022;

Now therefore the Council of The Corporation of the City of Pickering hereby enacts as follows:

1. That Principles Integrity is hereby appointed as the Integrity Commissioner for the City of Pickering; and,
2. That the agreement with Principles Integrity as the City of Pickering's Integrity Commissioner provide the following roles and services:

Role:

The role of the Integrity Commissioner is:

- (a) The application of the Code of Conduct for Members of Council and for members of local boards;
- (b) The application of any procedures, rules and policies of the City and local boards governing the ethical behaviour of Members of Council and local boards;
- (c) The application of sections 5, 5.1, and 5.2 of the *Municipal Conflict of Interest Act* to Members of Council and local boards;
- (d) Respond to requests from Members of Council and of local boards for advice respecting their obligations under the Code of Conduct applicable to the member;
- (e) Respond to requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the City or of a local board, governing the ethical behaviour of members;
- (f) Respond to requests from Members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*; and,
- (g) Provide educational information to Members of Council and local boards.

Duties:

The Integrity Commissioner shall cause to perform, in an independent manner, the functions of an Integrity Commissioner pursuant to Part V.1 of the *Municipal Act*, with respect to the application of the Code of Conduct for Members of Council and of local boards, of the City of Pickering, including any legislation, procedures, rules and policies of the City governing the ethical behaviour of the Members. The mandate of the Integrity Commissioner will include:

- (a) Provisions of advice and education upon request by a Member or by Council or the local board as a whole, regarding ethical obligations and responsibilities under their Code of Conduct, and any other legislation, rules or policies governing their ethical behaviour;
- (b) Receiving, assessing and investigating where appropriate, complaints may by Council, a Member of Council, a local board, a member of a local board, a member of staff, or a member of the public respecting an alleged breach of the City's Code of Conduct through the provisions of the Code of Conduct and Procedures for Complaints;
- (c) Receiving, assessing and conducting an inquiry, where appropriate, with respect to requests for inquiry made by an elector, or a person demonstrably acting in the public interest concerning an alleged contravention of section 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act*;
- (d) Giving advice on policy issues and the workings of the City's Integrity Commissioner's office; and,
- (e) All advice being provided in writing in accordance with the requirements of Section 223.3(2.2) of the *Municipal Act*.

Reporting to Council:

- (a) The Integrity Commissioner will report directly to Pickering City Council with a report containing the results of investigations and one annual report summarizing the year's activities, observations, and any resulting general recommendations; and,
- (b) The Integrity Commissioner may recommend that City Council impose penalties in accordance with the *Municipal Act* if in the opinion of the Integrity Commissioner, a Member has contravened the Code of Conduct.

Other General Provisions:

- (a) That should the Integrity Commissioner conduct an investigation or provided any other service, it shall do so in accordance with the terms and conditions of the Agreement executed between it and the City of Pickering and shall adhere to all applicable laws, applicable statutes, and established City Policies;
- (b) That should the City of Pickering desire any further services from the Integrity Commissioner outside what is outlined in this By-law, the Integrity Commissioner may oblige in providing such other services, so long as City Council has passed a

resolution to authorize the Integrity Commissioner to provide such other service. If authorized to do so, the Integrity Commissioner will charge the hourly fee in accordance with the Agreement for such other services; and,

(c) All services provided by the Integrity Commissioner conform to all the statutory requirements of Section 223.3 to 223.8 of the *Municipal Act*.

3. That By-law 7684/19 be repealed effective November 14, 2022.
4. That this By-law shall come into effect as of November 15, 2022.

By-law passed this 11th day of July, 2022.

David Ryan, Mayor

Susan Cassel, City Clerk