

# Staff Report



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To	<b>City Council</b>
Service Area	Corporate Services
Date	Monday, December 14, 2020
Subject	<b>Appointment of Integrity Commissioner</b>

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## Recommendation

1. That Aird & Berlis LLP be appointed as the City of Guelph's Integrity Commissioner.
  2. That the Mayor and City Clerk be authorized to execute an agreement to contract the services of Aird & Berlis LLP as the City of Guelph Integrity Commissioner.
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## Executive Summary

### Purpose of Report

To recommend the appointment of [Aird & Berlis LLP](#) as the City's new Integrity Commissioner as the contract with the current Integrity Commissioner expires on December 31, 2020.

### Key Findings

The City of Guelph first appointed an Integrity Commissioner in 2011 in accordance with accountability and transparency provisions set out in [Part V.1 of the Municipal Act, 2001](#). The current Integrity Commissioner, Robert J. Swayze, Barrister & Solicitor, has held this position since 2011 and his current contract is set to expire on December 31, 2020. To ensure continuity of Integrity Commissioner services, the City issued a request for proposals in September 2020. Following the evaluation of all proposals, staff are recommending the appointment of Aird & Berlis LLP as the City's new Integrity Commissioner.

### Financial Implications

Integrity Commissioner services are billed to the City on an hourly rate when utilized and can vary depending on how often the services are used. In 2019, the total cost for Integrity Commissioner services was \$25,040.80. Based on the costing proposal submitted by Aird & Berlis LLP, it is anticipated that costs will remain on par with amounts paid out in previous years based on a similar number of billable hours.

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## Report

In 2006, significant changes were made to the [Municipal Act, 2001](#) (the Act) relating to the accountability and transparency of municipal governments, including the discretionary appointment of an Integrity Commissioner to provide advice and

conduct investigations regarding violations of a municipality's code of conduct for members of City Council and local boards. Through the enactment of Bill 68, Modernizing Ontario's Municipal Legislation Act, 2017, the appointment of an Integrity Commissioner became a mandatory requirement for all municipalities.

The role of the Integrity Commissioner is set out in [Part V.1 of the Act](#). In addition to enforcing and providing advice related to the City's [Code of Conduct for Members of Council and Local Boards](#) (the Code of Conduct), the Integrity Commissioner is also responsible for investigations related to conflicts of pecuniary interest in accordance with [Section 223.4.1 of the Act](#) and to provide advice to members of Council and the City's local boards regarding the [Municipal Conflict of Interest Act](#).

The City of Guelph's current Integrity Commissioner is Robert J. Swayze, Barrister & Solicitor, who has held the position since the City first appointed an Integrity Commissioner in 2011. Robert J. Swayze's current contract expires on December 31, 2020. As a result of this upcoming contract expiration, staff issued a request for proposals (RFP) for Integrity Commissioner services. The RFP was issued on September 3, 2020 and closed on September 18, 2020. Four bids were submitted in response to the RFP. As part of the RFP process, interviews were conducted by staff from the City Clerk's Office with two of the respondents who had the highest-scoring proposals. Following the interviews, Aird & Berlis LLP received the highest total score and staff are therefore recommending their appointment as the City's Integrity Commissioner commencing January 1, 2021.

Aird & Berlis LLP specializes in all areas of business law, including municipal and land use planning, and is the Integrity Commissioner for over 40 municipalities in Ontario. Aird & Berlis LLP has proposed that a team of lawyers, led by John Mascarin, a senior partner in the firm's Municipal and Land Use Planning Group, provide Integrity Commissioner services for the City of Guelph. This approach will increase the resources that can be deployed to respond to requests for investigations or advice.

As outlined in an [information report](#) dated Friday, June 19, 2020, Aird & Berlis LLP has also assumed responsibility for conducting closed meeting investigations for the City of Guelph.

## **Financial Implications**

In 2019, the total cost for Integrity Commissioner services was \$25,040.80, which included billable time as well as an annual retainer fee. Aird & Berlis LLP charges a slightly higher hourly rate than the current Integrity Commissioner, however they do not charge an annual retainer fee. It is anticipated costs will remain on par based on a similar number of billable hours. The number of hours billed can vary depending on how often Integrity Commissioner services are used to provide advice and conduct investigations. The budget for the Integrity Commissioner has already been funded and can be adjusted as necessary in future years through the City's budgeting process.

## **Consultations**

Procurement staff were consulted throughout the RFP process. The Chief Administrative Office was apprised of progress relating to the securing of Integrity Commissioner services throughout the procurement cycle.

## **Strategic Plan Alignment**

The Working Together for our Future strategic plan priority seeks to improve how the City communicates with residents and delivers services. 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 City's Code of Conduct and the Municipal Conflict of Interest Act. Additionally, the continued appointment of an Integrity Commissioner will ensure access to a publicly available accountability officer to support the [Code of Conduct complaint procedure](#) and process.

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

## **Attachments**

None.

## **Departmental Approval**

Dylan McMahon, Manager, Legislative Services/Deputy City Clerk

## **Report Author**

Lindsay Cline, Council and Committee Coordinator

## **This report was approved by:**

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## **This report was recommended by:**

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