

Expertise for
Municipalities

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Sudbury ON
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TEMISKAMING MUNICIPAL ASSOCIATION



PROPOSAL

**Integrity Commissioner
Services**

Expertise for Municipalities

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Temiskaming Municipal Association

Attention: His Worship, Mr. Merrill Bond
tigermerrill@icloud.com

Mr. Reynald Rivard
Clerk-Treasurer, Township of Armstrong
reynald.rivard@armstrong.ca

November 29, 2017

RE: Integrity Commissioner Services Proposal

Further to our recent email, we understand that the Temiskaming Municipal Association (or maybe the majority of members) may be thinking of searching for the services of an Integrity Commissioner for the area given the mandatory requirements in Bill 68.

We are a group of municipal colleagues who believe in the good work that is being done in the municipal sector. We also believe that we can be of great assistance to many communities, particularly those in Rural Northern Ontario.

To that end, we submit for your consideration the following proposal for the services of Integrity Commissioner. We could also make ourselves available for a presentation or meeting with your group at a date and time that is most convenient for your group.

For questions related to our submission please contact Chris Wray by phone at 705-914-0551 or by email at chris@e4m.solutions.

Best Regards,



Chris Wray
Partner

About Us

A group of like minded thinkers, recognized that the municipal sector in rural Northern Ontario is underserved with respect to training and municipally related services. The group also recognized that this same part of the sector lacks the capacity (human and financial) to execute practices necessary to comply with legislation and good governance. To that end, there was a desire to make a difference by giving back to the sector. To accomplish this, they incorporated Expertise for Municipalities (E⁴m) as a not-for-profit association (July 2017) to empower excellence in small municipalities.

E⁴m believes in the following core principles:

- a) That by providing “on the ground” support services to small municipalities, in all aspects of the municipal operation, we can help municipalities with limited budgets and few staff succeed in delivering mandatory services;
- b) That by holding relevant conferences, meetings, or training sessions this segment of the municipal sector will be strengthened through the professional development of its elected officials, employees and volunteers;
- c) That by assisting small municipalities with preparing presentations to government and/or the private sector we can help them to deliver on and advocate for the municipal mandate;
- d) That by sharing information collected resulting from research carried out by E⁴m, municipalities can be better equipped to address issues and solve problems;
- e) That by promoting the principles of good municipal governance we can encourage municipalities to achieve strength and sustainability through sound governmental practices and public engagement; and
- f) That we can give back to the municipal sector by transferring knowledge and assisting to build capacity.

E⁴m is a network of municipal professionals with a wide array of competencies and experiences who have a passion and commitment to providing small municipalities with affordable professional services.

Our Understanding of the Requirements

Many municipalities have already opted to adopt a Code of Ethics and Conduct (the “Code of Conduct”) for Members of Council. Some municipalities may have included provisions for the use of an Integrity Commissioner to carry out an investigation of a breach of their Code of Conduct.

The landscape has now changed. The *Municipal Act* now has more concretely defined the role of the Integrity Commissioner. Bill 68 (2017) amendments will require municipalities to have a Code of Conduct and appoint an Integrity Commissioner for Council, its Committees and Local Boards to:

1. Provide advice, upon request, to Members of Council, Committees & Local Boards respecting their obligations under:
 - a. the Municipality's Code of Conduct;
 - b. a procedure, rule or policy of the Municipality or Local Board governing the ethical behaviour of Members; and
 - c. the *Municipal Conflict of Interest Act* Sections 5, 5.1 and 5.2
2. Provide Educational Information to Members of Council, Committees, Local Boards and Members of the public about
 - a. the Municipality's Code of Conduct; and
 - b. the *Municipal Conflict of Interest Act* Sections 5, 5.1 and 5.2
3. Investigate and make findings as to
 - a. the application of the code of conduct for Members of Council and the code of conduct for Members of Local Boards;
 - b. the application of any procedures, rules and policies of the municipality and local boards governing ethical behaviour of Members; and
 - c. the application of Sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*.

Municipal Councils have the option of appointing their own Integrity Commissioner or requesting a neighbouring municipality, who already has an Integrity Commissioner appointed, provide them the service to fulfill their obligations under these changes to the *Municipal Act*. These changes come into effect March of 2019.

Of interest with these changes, is the addition of complaints under the *Municipal Conflict of Interest Act* being under the purview of the Integrity Commissioner. Previously, anyone who believed a breach of the said Act had occurred needed to assume the cost of a legal action. Now complaints can be made to the Integrity Commissioner. The Integrity Commissioner upon completing an investigation and considering it appropriate can apply to a judge under Section 8 of the *Municipal Conflict of Interest Act*. Many in the municipal sector believe that this will create an influx of complaints.

In the spirit of maintaining public confidence and the practice of good governance through increased accountability and transparency, the members of the *Temiskaming Municipal Association* may decide to seek the services of an Integrity Commissioner. We would suggest that it would be in the best interest of your members to engage the services of an independent third party with high ethical standards to act as Integrity Commissioner.

E⁴m is a highly ethical, neutral third party committed to providing your members with just such a service.

Our Workplan

The Office of the Municipal Integrity Commissioner may receive complaints of wrongdoing from property tax ratepayers, Council Members and municipal staff. We recognize that it takes great courage to make such a disclosure, and will do our best to ensure that the process is fair, transparent and prompt. We also acknowledge that each complaint must be handled in a respectful yet confidential manner. We believe our process for dealing with complaints meets these tenets.

As previously stated, amendments to the *Municipal Act* made through *Bill 68* (2017) greatly changed the municipal landscape as it relates to the conduct of Members of Municipal Councils and Local Boards. Effective March 1, 2019, all Municipalities are required to have a Code of Conduct for Members of Council and their Local Boards. Also coming into effect March 1, 2019, municipalities will be required to appoint an Integrity Commissioner or have access to the use of an Integrity Commissioner of another municipality.

In preparation for the coming into force of these *Bill 68* (2017) Amendments to the *Municipal Act*, we propose that our appointment as the Integrity Commissioner for your members would encompass five (5) broad categories as follows:

- Education
- Advice
- Investigation
- Inquiries
- Reporting

Education

Our belief is that knowledge and understanding go a long way to prevent breaches of policies and/or legislation thereby limiting the number of complaints being laid. Our holistic approach addresses this by working directly with your Members and their Local Boards and indirectly with the general public. By this we mean that we work with your Members to hone our educational programs to meet their specific needs; since the dynamics of Municipal Councils and Local Boards are diverse and dependent upon the experiences and competencies of their elected officials. We also provide information to the public to explain the parameters within which Council makes decisions. We propose that this would be carried out using any of the following methods; group settings, one-on-one meetings, annual reporting and through the posting of documents on the municipal website.

We feel it is of primary importance for the Integrity Commissioner to be included as part of the orientation of the Members of Council and Local Boards after an election and

then again when a vacancy has been filled. To do this we would work with your municipal staff to organize a group training exercise as soon after the 2018 election as practical. Orientation for the replacement of a vacant position either of Council or a Local Board would be executed through one-on-one meetings.

Advice

The Integrity Commissioner is responsible for giving advice to Council and Local Board Members with respect to the municipally adopted Code of Conduct, any other policy or procedure that governs their ethical behaviour and the *Municipal Conflict of Interest Act*. Until changes to the *Municipal Act* come into force, advice to your Members would be limited to the current Code of Conduct.

As of March 1, 2019, advice provided to Members would then be according to the changes to Section 223.3 of the *Municipal Act* and include the following:

1. 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.
2. Requests from Members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
3. 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*.

Investigation

Any investigation with respect to a complaint under a current Code of Conduct (for one of your member Municipalities) will be conducted keeping in mind the investigative authority provided to the Integrity Commissioner as set out by an individual Council. To that end, we propose that the attached *Appendix "A"* be adopted by any participating Council to be used as the approved protocol for administering all complaints.

As a standard of practice all complaints will be investigated in a manner that ensures procedural fairness.

On March 1, 2019 amendments to the *Municipal Act* will change to how investigations by the Integrity Commissioner are administered. Any changes or clarifications will be made in the guiding procedures of your Members with our assistance and be in effect for all subsequent investigations.

Inquiries by Integrity Commissioner

All inquiries by the Integrity Commissioner shall be conducted according to Section 223.4 of the *Municipal Act*. After March 1, 2019, the powers of the Integrity Commissioner will be expanded for the purpose of an inquiry. We would ensure, that if necessary, any inquiry be conducted in accordance with these changes and in the interim with respect to the current provisions of the *Municipal Act*.

Reporting

Reporting the activities of the Integrity Commissioner is a key deliverable for the office. It provides accountability and transparency and builds confidence in the system of municipal governance in the eyes of the public.

We would propose that all reporting be done in accordance with that which is allowable under Section 223.6 of the *Municipal Act*.

When necessary upon receipt of a complaint, the Integrity Commissioner will provide a written report about a Member of Council or a Local Board, with an opinion on whether or not the member contravened the applicable Code of Conduct. Details of the violation will be disclosed to the extent necessary for the purposes of the report.

An Annual Report will be provided to Council summarizing the activities of the Integrity Commissioner during the year. The report shall not disclose any confidential advice provided by the Integrity Commissioner, once those provisions are in place as at March 1, 2019. Details again, will only be provided to the extent they are necessary for the report. The Report will be given to Council no later than March 1st of any given year.

Our Team

While we have an array of municipal professionals and partnerships upon which we can rely, we are proposing that the following two (2) partners of E⁴m conduct all the services as Integrity Commissioner for your participating members. We also think that it is worth noting our unique affiliation with one of our partners, *Wishart Municipal Group*.

Chris Wray

Chris is a founding member of E⁴m. Originally from Sharon, Ontario, He has spent many years living in Northern Ontario. Chris has over twenty (20) years of experience as a senior municipal official. In 2014, Chris returned to the Municipality of Wawa as CAO / Clerk-Treasurer after spending 18 months as the CAO for the Township of Muskoka Lakes. Prior to that he had been the CAO /Clerk-Treasurer in Wawa from

1999 to 2012 arriving from Ignace, Ontario where he was the CAO / Clerk-Treasurer from 1996 – 1999.

The broad range of duties and experiences that accompany a Senior Municipal Position combined with his 35 years of experience in the Finance and Office Management field, enabled Chris to gain a wealth of knowledge in finance and management. Ten years with Dun & Bradstreet Software Services Canada Ltd. a leader in the Information Technology industry prepared Chris for the constant changes faced by the municipal sector.

He currently serves on many Boards including the Association of Municipal Managers, Clerks and Treasurers of Ontario (President 2015 -2016), Local Authority Services (LAS), The Association of Municipalities of Ontario (Rural Caucus), the Rural Ontario Municipal Association, the Municipal-Industry Program Committee (Blue Box) and the Sault Ste Marie Innovation Centre where he serves as Chairperson.

In recognition of the accomplishments achieved through Chris' ingenuity and direction, the Municipality of Wawa has garnered several awards including; the ESRI Award for Innovation in 2007, the Peter J Marshall Award in 2001 & 2007 (Association of Municipalities of Ontario) and the E.A. Danby Award in 2008 (Association of Municipal Managers, Clerks and Treasurers of Ontario).

Throughout his municipal career has been involved Committees that have broad implications for municipalities. Of note, are those committees involved with the OPP Billing Reform, Provincial Land Tax Reform, and the new Asset Management Planning Regulation. Chris has also been published in Municipal World, the Municipal Monitor and Northern Ontario Business.

Under Chris's guidance, the Municipality of Wawa developed a Code of Conduct for Council Members in 2001, pre-dating the reference in the Municipal Act by five (5) years. The current Code of Conduct for Wawa is still held up as an example of a good practice for municipal governments in Ontario.

Peggy Young-Lovelace

Peggy has spent her entire life residing in Northern Ontario. She currently has a home on Manitoulin Island where she enjoys the intricacies of rural small community life.

As a founding member, Peggy brings a variety of skills and competencies to E4m. She has a B.A. Psychology and for more than twenty (20) years, has worked with local governments in varying capacities. She has worked with Municipalities, Local Boards and First Nations on policy development, accountability and transparency processes as well as governance fundamentals. She has over fifteen (15) years in senior management positions. Most recently, she worked for five (5) years as the CAO/Clerk-Treasurer of a small municipality before she semi-retired to pursue the creation of E4m.

Since that time, Peggy became certified as a workplace investigator where she was trained by a law firm in procedural fairness, investigative techniques, substantiation of fact and analysis of credibility. She is currently carrying out several investigations for municipal clients.

Peggy has a solid grasp on governance tools and the process of governing. She was the lead on developing a governance tool for First Nations that was recognized nationally. She has been a municipal Councillor in a small municipality and held key positions on a number of local and volunteer boards. Peggy is the Past Chair of the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) Zone 7. She was a founding member of the First Nations Governance Network that will be celebrating ten (10) years of promoting good governance practices to First Nations in 2017.

Wishart Municipal Group

E⁴m has built partnerships with other services from the municipal sector. We are particularly proud of the partnership that we have with the *Wishart Municipal Group*, formed by the Wishart Law Firm and headed by Senior Lawyer, Paul Cassan.

Specializing his practice in Municipal Law, Labour and Employment and Municipal Tax Assessments, Paul has experience with matters before the Ontario Superior Court of Justice, the Divisional Court, the Ontario Court of Appeal and the Supreme Court of Canada. Paul regularly appears before the Ontario Labour Relations Board, the Ontario Human Rights Tribunal and the Ontario Police Arbitration Commission¹.

Paul is well known to many communities in Northern Ontario, including those in the *District of Temiskaming*, E⁴m works closely with Paul on a number of issues and while he will not be conducting Integrity Commissioner investigations, we can call on him for advice if the need arises.

Our Fees

E⁴m does not believe in retainer fees. We believe that all fees should be earned and not simply provided as a placeholder. To that end, we propose an arrangement with no retainer fee.

In keeping with our status as a non-profit, 20% of all fees are kept within our organization for the express purpose of assisting small municipalities through

¹ Source – Wishart Law Firm LLP

subsidized workshops, education and related events. It is through this process that we know we can provide significant assistance and knowledge transfer to the sector.

We would propose that all services of the Integrity Commissioner would be billed in two ways.

1. In the case of all investigations, or the provision of advice an hourly rate would apply.
 - a. For investigations, our rate would be \$125 per hour. While it is likely that most investigations can be conducted remotely, if attendance in the home community of one of your Members is a necessity of the investigation, all travel and accommodations would be in addition to the hourly fee. Travel time in excess of three (3) hours would be charged at a rate of \$50 per hour.
 - b. It is our opinion that providing written advice², could be conducted remotely so there would be no additional travel or accommodation cost. We would propose an hourly fee of \$100 for this service.
2. Educational sessions conducted in a workshop setting for Council or Local Board orientation or similar sessions can be conducted at a cost of \$1,000 per day plus costs. These workshops would be limited to one presenter. Additional presenters can be added for an additional cost which would be negotiated on an as needed basis.

Insurance

E⁴m can confirm that that it currently carries Professional Liability Insurance covering the stated work and services in the amount of \$2 million (\$2,000,000) and shall continue to carry this amount for twelve months following the completion of all work.

We would like to draw to your attention, changes to the Municipal Act, Section 223.3 (6), through Bill 68 that will be effective March 1, 2019:

Indemnity

(6) A municipality shall indemnify and save harmless the Commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under this Part or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.

If successful, it would be our intention to discuss this provision with your participating Members, prior to the changes applicable (Bill 68) on March 1, 2019.

² Once the provisions of Bill 68 take effect

Summary

E⁴m has a unique but dedicated commitment to the municipal sector, particularly in Rural Northern Ontario. We believe in giving back to the sector that has shown a dedication to quality of life in each and every community.

We look forward to a positive response from the *Temiskaming Municipal Association* on our proposal. We are sure that your members will be pleased with our services as Integrity Commissioner and we hope that they may consider embracing some of the others services that we offer.

If your *Association* wishes for us to make a more formal presentation prior to making a final decision, we are more than willing to arrange this for a date that is conducive to your schedule.