



Staff Report

Administration

Report To: Committee of The Whole
Meeting Date: October 28, 2019
Report Number: FAF.19.204
Subject: Establishing a Legal Services Department
Prepared by: Shawn Everitt, Chief Administrative Officer

A. Recommendations

THAT Council receive Staff Report FAF.19.204, entitled "Establishing a Legal Services Department";

AND THAT Council endorse the development of a Legal Services Department to be included in the Town's Organizational Chart as shown in Attachment 1 of this report;

AND THAT Council approve the position of Director of Legal Services as outlined in the Job Description as presented in Attachment 2 of this report and authorize staff to initiate the recruitment process immediately;

AND THAT Council approve the position of Legal Services Clerk as outlined in the Job Description as presented in Attachment 3 of this report with the intent to fill the position after the Director of Legal Services is in place;

or

AND THAT Council direct staff to include the position of Director of Legal Services as outlined in the Job Description as presented in Attachment 2 of this report as an additional staffing request for Council consideration through the 2020 Budget process;

AND THAT Council direct staff to include the position of Legal Services Clerk as outlined in the Job Description as presented in Attachment 3 of this report as an additional staffing request for Council consideration through the 2020 Budget process;

AND THAT Council direct staff to bring forward an overview of potential staffing resources and structure for consideration through the 2020 proposed Budget process to enhance overall By-law Enforcement Services for the Town.

B. Overview

The purpose of this report is to request approval to establish a Legal Service Department to increase efficiencies and provide in-house generalist expertise for Town Legal Services and provide direct support and guidance to the Town By-law Division.

C. Background

The Town currently utilizes a range of external Legal services and does currently have an in-house contract position that deals mainly with development services in particular Development Agreements.

Over the past number of months, Council has identified the desire to consider the enhancement of Legal Services. Staff is bringing forward this report as a result of considering next steps, and ultimately proposing the establishment of a Legal Service Department.

Recent restructuring of the Corporate Structure has allowed Management to review service deliveries and staff resources while considering the overall impacts of a revised and enhanced Licensing By-law.

An increased level of incidents such as reporting of destruction of trees, use of municipal lands, building related infractions, reports of noise, etc have been considered through this review. Management is recommending that with the proposed establishment of a Legal Services Department, that By-law staff would report directly through the proposed Legal Services Department.

D. Analysis

As outlined in the recommendations of this report, options are provided to Council to consider the establishment of a Legal Services Department as part of the overall Corporate Organizational Structure. The options to be considered by Council are as follows;

- a) Establish a Legal Services Department including the addition of a Director of Legal Services and Legal Services Clerk immediately; or
- b) Consider the establishment of a Legal Services Department including the addition of a Director of Legal Services and Legal Services Clerk through the 2020 Budget deliberations.

The intent through this proposed establishment of a Legal Services Department would be to have the Town's By-law Division report to the Director of Legal Services.

In reviewing previous legal services costs to the Town, staff has identified a range of areas of expertise that legal services have been retained for.

It is essential to note that the Town would still need to retain legal services for areas of expertise such as provision of legal counsel for Local Planning Appeals Tribunals (LPAT) for Planning Appeals as well as other Appeals such as the Development Charge Review Study.

The hiring of a generalist in law would provide significant efficiencies in timely reviews and effectiveness in moving forward ideally with remedy based solutions and or timely responses to enhance customer services.

The efficiencies anticipated are both from the perspective of reduction of staff time required to consider subject matter and also the expenditures of retaining legal services for a range of subjects as follows;

- Municipal Act Interpretations
- Real Estate
- Creation of Development Agreement
- Agreements for Land Use,
- consideration of Legal non-conforming interpretations,
- drafting of legal agreements,
- consideration of Freedom of Information requests
- guidance on procedural issues

Year	Expenses each year for non-LPAT or Specialized Legal Services
2013	\$63,957
2014	\$37,054
2015	\$75,731
2016	\$87,091
2017	\$93,443
2018	\$87,105
2019	\$45,000

The Director of Legal Services would also be delegated as the “Head” for the Municipal Freedom of Information and Protection of Privacy Act. This delegation would be removed from the current “Town Clerk”.

In addition to the Director of Legal Services position, staff is also recommending that a new position being a Legal Services Clerk to the Director of Legal Services be established to ensure that adequate administrative staffing is in place to allow for the flow of work, in particular work relating to Freedom of Information requests can be achieved in a timely fashion in addition to work related to Corporate Legal matters.

Efficiencies and resources to Administration Department & Town Clerk

Current use of Clerks staff for Freedom of Information

Significant efficiencies would be realized in the Administration Department in particular relating to the Town Clerk and Deputy Clerk. As previously noted, currently the Town Clerk is designated as the “Head” under the Municipal Freedom of Information and Protection of Privacy Act. The Town Clerk and the Deputy Clerk complete the duties legislated under the Municipal Freedom of Information and Protection of Privacy Act. It is typical that these duties include review of relevant emails, tracking and collection of all related communications and notes from staff including both internal and external communications, vetting of all materials to ensure appropriate and allowable release of information and ultimately the releasing of relevant materials to the requestor. This process may also result in an appeal to the Information and Privacy Commissioner of Ontario “IPC” where the requestor is not satisfied with the Town’s response. Significant staff time throughout the organization is required to complete the initial response to the request for information process, however the Clerks Department is tasked with the majority of the processing and reporting. Specific time lines are mandated for the “Head” to provide response and submit all relevant materials.

Year	Number of Freedom of Information Requests	Number of Appeals to the Information and Privacy Commissioner of Ontario
2010	5	0
2011	2	0
2012	6	1
2013	3	0
2014	7	1
2015	10	2
2016	14	6
2017	6	4
2018	11	2
2019	8	4

It is important to emphasize with consideration of this report, that Freedom of Information Requests cannot be anticipated or scheduled in annual work plans. The chart above identifies the number of Freedom of Information requests since 2010. The chart also identifies the number of appeals. The tasks completed through the required processes have caused significant strains to existing staffing resources for a number of years, including additional hours

of work that are not cost recovered and require additional hours of work during evening hours and weekends. This work relates to extremely confidential information and requires review of private and sensitive material.

These averages include a range of staff required depending on the subject matter. As of mid-2019, staff now are tracking hours specific to tasks and exact hours will be available moving forward.

Average time for staff resources for each Freedom of Information request	Average time for staff resources for each Freedom of Information request	Average costs in staff resources at <u>average at 9 per year</u>
<u>70 hours</u> on average per request	total staff time \$4,650 per request	\$41,850 per year average
Average time for staff resources for each Freedom of Information request	Average time for staff resources for each Freedom of Information request	Average costs in staff resources at <u>average at 3 per year</u>
“Appeal”	“Appeal”	“Appeal”
<u>30 hours</u> on average per request	average staff time of \$2,100 per request	\$6,300 per year average
	Total	\$48,150 on average annually

In addition, through the consideration of the Towns Procedural By-law that is currently being revised, the direction from Council has been to amend the regular scheduling of Committee of the Whole and Council meetings. The proposed revision would result in 44 regularly scheduled meetings compared to 30 regular scheduled meetings in 2019. Each meeting will require the typical preparation of all meeting agenda, minutes and advertising that currently are completed by the Clerks Department.

Ideally, as a result of the increase of regularly scheduled meeting, the reduction of Special Meetings of Council and Special Meetings of Committee of the Whole should be reduced to provide efficiencies.

Year	Number of Committee of the Whole Meetings	Number of Council Meetings	Total number of Scheduled Meetings	Number of Special Meetings of Council and Committee of the Whole	Total number of Meetings
2010 * ***	N/A	22	N/A	9	31
2011 ***	N/A	23	N/A	26	49
2012 ***	N/A	18	N/A	9	27
2013 ***	2	15	17	12	29
2014	16	14	30	18	48
2015*	16	15	31	29	60
2016	20	15	35	32	67
2017	19	15	34	34	68
2018*	20	14	34	26	60
2019*	15**	15**	30	33 to date	63 to date
2020 as proposed	22	22	44	anticipate 10	54

* New Term of Council with Orientation Meetings

** Including all 2019 scheduled meetings

*** Prior to Committee of the Whole Structure

The addition of in-house Legal Services will provide significant benefit to allow for efficient and timely management of the municipality.

Management is also recommending that Council direct staff to bring forward a review of the existing structure and staffing resources for By-law Enforcement for consideration through the 2020 proposed Budget to enhance overall By-law enforcement services for the Town. The timing of the review through the 2020 proposed budget will be aligned with consideration of

the Municipal Licensing By-law, consideration of a Municipal Administrative Penalty Tribunal and the annual establishment of Fees and Charges By-law.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners
Objective #1 Improve External Communication with our Constituents

Goal #3: Support Healthy Lifestyles
Objective #3 Manage Growth and Promote Smart Growth
Objective #4 Commit to Sustainability

Goal #4: Promote a Culture of Organizational & Operational Excellence
Objective #1 To Be an Employer of Choice
Objective #2 Improve Internal Communications Across our Organization
Objective #3 To Consistently Deliver Excellent Customer Service
Objective #4 To Be a Financially Responsible Organization
Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None at this time

G. Financial Impact

Position	Proposed Position	Current Salary & Benefits	New Annual Salary & Benefits	Efficiencies found
Director of Legal Services	Proposed	N/A	\$185,790	N/A
Legal Services Clerk	Proposed	N/A	\$88,952	N/A
Use of external legal services for non LPAT related matters	Current external costs	N/A	N/A	Estimated average of \$75,000 annually
Use of external legal services specific to Freedom of Information Requests	Current external costs	N/A	N/A	Estimated average of \$10,000 annually
Efficiencies through Corporate Restructuring				216,494

Position	Proposed Position	Current Salary & Benefits	New Annual Salary & Benefits	Efficiencies found
Total		\$216,494	\$274,742	\$301,494

With consideration of benefits included in staff costs, it is anticipated an overall efficiency of approximately \$26,500.00 will be realized.

As contained in the recommendation, a review of the By-law Enforcement Department has been identified and it is anticipated that additional costs will be proposed to enhance the level of By-law enforcement services. It is recommended that this review and consideration be completed through the 2020 Budget process.

H. In consultation with

Senior Management Team

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. However, any comments regarding this report should be submitted to Shawn Everitt, cao@thebluemountains.ca.

J. Attached

1. Proposed Organizational Chart
2. Draft Job Description for Director of Legal Services
3. Draft Job Description for Legal Services Clerk

Respectfully Submitted,

Shawn Everitt
Chief Administrative Officer

For more information, please contact:
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