

TOWN OF INGERSOLL
Clerk's Report

Municipal Act
Appointment of an Investigator

Report No. C-154/09
Approval Date: October 5, 2009

Mayor Holbrough & Members of Council:

Purpose:

To provide information for Council's consideration on the authority to appoint a Closed Session Investigator as per Section 239.2 of the Municipal Act, 2001, as amended.

Background:

The Municipal Act allows for any person to request an investigation whether a municipality or a local board has complied with Section 239 of the Municipal Act (authority to go into closed session) or a Procedural By-law in respect of a meeting or part of a meeting that was closed to the public.

To facilitate an investigation, Council may elect to appoint an Investigator or refer the request to the Ombudsman if no Investigator is appointed.

An investigator has the authority to investigate in an independent manner, on a complaint made to him/her, whether the municipality or a local board of the municipality has complied with Section 239 (exceptions to go into Closed Session) or the municipality's Procedural By-law in respect of a meeting or part of a meeting closed to the public, and to report on the investigation.

Council has the authority to appoint and assign such powers and duties in accordance with Section 239.2 (5):

- (a) investigator's independence and impartiality;
- (b) confidentiality with respect to the investigator's activities; and
- (c) the credibility of the investigator's investigative process.

The investigator is not required to be a municipal employee and has the power to delegate in writing to any person, other than a member of council, the investigator's powers and duties. Council may consider an independent appointment; engage the services of AMO; engage the services of a Solicitor (not the Town's Solicitor) to name a few or elect to use

the Ombudsman Office. All registered complaints will be forwarded to the Ombudsman's Office for investigation, if Council elects not to appoint an Investigator.

The focus of the investigator is narrow in scope as indicated above being whether the reason for the closed session was in accordance with the Act or the notice requirements contained in the Procedural By-law were adhered to by the municipality.

If, after making an investigation, the investigator is of the opinion that the meeting or part of the meeting that was the subject-matter of the investigation appears to have been closed to the public contrary to the Act, the investigator shall provide a report stating their opinion and reasons and may make recommendations as they see fit.

Reports shall be made available to the public.

Discussion:

Mr. Maddox currently is engaged to act as an investigator for the County of Oxford, the Towns of Ingersoll & Tillsonburg, the Townships of South-West Oxford, Norwich, Zorra, Blandford-Blenheim and East Zorra-Tavistock.

Mr. Maddox has informed the County that his consulting firm, JGM Consulting, is prepared to extend the agreement under the same terms and conditions for the year 2010 and is further willing to consider a further one year extension or for a period of two years in total.

At the time of this report, it has not been determined if the majority of the municipalities are prepared to accept a one (1) year term or two (2) year term.

Administration is recommending to Council that the Mayor and the Clerk be authorized to enter into a Joint Agreement to continue the services of JGM Consulting and the term to be determined as selected by the majority of the municipalities.

Recommendation:

I am recommending that Ingersoll participate in a united agreement with the County and the area municipalities to engage JGM Consulting (John Maddox) for the period not to exceed two (2) years to provide the service of Investigator as required by the Municipal Act commencing January 1, 2010.

Respectfully submitted

Elaine Clark
Clerk/ Deputy-Administrator