

NO: R200

COUNCIL DATE: November 28, 2022

REGULAR COUNCIL

TO: **Mayor & Council**

DATE: **November 23, 2022**

FROM: **General Manager, Corporate Services**

FILE: **2210-20-045**

SUBJECT: **Surrey Ethics Commissioner**

RECOMMENDATION

The Corporate Services Department recommends that Council:

1. Receive this report for information; and
2. Endorse Option 1, as outlined in this report, to re-establish the Surrey Ethics Commissioner Selection Committee to recruit a new Surrey Ethics Commissioner and authorize staff to undertake next steps; or
3. Endorse Option 2, as outlined in this report, to re-appoint the former Surrey Ethics Commissioner.

INTENT

The purpose of this report is to seek direction from Council on its preferred direction on next steps regarding the Surrey Ethics Commissioner Office.

BACKGROUND

Council adopted the *Council Code of Conduct Bylaw, 2020, No. 20020* (the “Code of Conduct”) on May 4, 2020. The Code of Conduct provides rules of ethical conduct for Council Members and processes for resolving complaints under the Code of Conduct, either informally or through a formal investigation process.

On July 13, 2020, Council appointed the Surrey Ethics Commissioner (the “Ethics Commissioner”). The Surrey Ethics Commissioner Office (the “SECO”) is an independent office that performs advisory and educational functions in relation to administering the Code of Conduct and assisting Council Members with understanding their ethical obligations. The Ethics Commissioner also has the power to investigate allegations of ethical misconduct in relation to Mayor and Council; to report their findings to Council; and provide recommendations to Council as to the appropriate sanction or discipline.

DISCUSSION

Under the *Ethics Commissioner Establishment Bylaw, 2020, No. 20018* (the “Establishment Bylaw”), the Ethics Commissioner may be appointed by Council for an initial term of up to two-years, after which the appointment may be renewed for a maximum of three one-year terms. On June 27, 2022, Council adopted resolution RES.CC22-78 in Closed Council, directing staff not to appoint a new Ethics Commissioner following the end of the term of the present Ethics Commissioner. Attached as Appendix “I” is a copy of resolution RES.CC22-78, which Council has publicly released. The term of the present Ethics Commissioner ended on July 13, 2022.

The previous Council’s resolution deferred to the newly elected Council the decision over the future of SECO. Accordingly, the present Council has the following options:

Option 1: Re-Establish the Surrey Ethics Commissioner Selection Committee (the “Selection Committee”) to Recruit a New Ethics Commissioner

Under the Establishment Bylaw, the role of the Selection Committee is to “recruit, review, interview, assess and recommend” to Council the candidate for the position of the Ethics Commissioner. The decision on appointing and re-appointing the Ethics Commissioner is ultimately Council’s.

A Selection Committee was previously established in 2020 to select Surrey’s first Ethics Commissioner and its term expired upon the Ethics Commissioner’s appointment. If Council wishes to consider appointing a new Ethics Commissioner, then Council is advised to re-establish the Selection Committee.

Under the Establishment Bylaw, the mandate of the Selection Committee is to search for and recommend to Council an Ethics Commissioner. The Selection Committee is comprised of five voting members and one non-voting member as follows:

- Three members of the public;
- Two City of Surrey Council Members; and
- One Legal Professional (non-voting member).

The process for appointing a new Selection Committee is as follows:

- Council Members: Council will appoint two of its members to the Selection Committee. Council Members who previously served are eligible to be re-appointed.
- Members of the Public: The City Clerk will solicit applications from interested members of the public, including those who previously served and who are again interested. Council will review applications and subsequently appoint three members of the public.
- Legal Counsel: Staff will present a list of senior external solicitors for Council’s consideration. Council will subsequently appoint an external legal counsel to be a non-voting member of the new Selection Committee.

Selection Committee appointments pertaining to members of the public will be based on an objective assessment of the fit between the skills and qualifications of the prospective candidates. Candidates should meet various relevant qualifications, including the following:

- Residence and/or business interests in Surrey;
- Willingness to submit to a criminal record review and personal interview;
- Knowledge about, and interest in, the community;
- Commitment to protecting fairness, avoiding conflict of interest and maintaining neutrality and objectivity; and
- Willingness, ability and availability to meet the time commitments related to Selection Committee duties.

If Council wishes to proceed with recruiting a new Ethics Commissioner, staff will initiate the selection process to solicit applications for Selection Committee members. A corporate report will be presented to Council for its review of applicants to the committee.

Once the Selection Committee is established, the General Manager, Corporate Services will hire a recruitment firm to assist the Selection Committee in an advisory capacity for the selection of the Ethics Commissioner. A representative from the recruitment firm will attend Selection Committee meetings and help facilitate the selection process.

Under this appointment process, the former Ethics Commissioner will be free to apply for the position and be considered along with other candidates.

Option 2: Re-Appoint the former Ethics Commissioner

Under the Establishment Bylaw, Council may, by resolution, appoint an individual to the position of Ethics Commissioner and approve the terms and conditions of the appointment.

If Council wishes to re-appoint the former Ethics Commissioner, Council may do so immediately. Because he has already served his initial two-year term, his re-appointment will be for a one-year term commencing from the date of the re-appointment. The former Ethics Commissioner has communicated to staff his willingness to be re-appointed.

Next Steps

If Council decides on Option 1, to consider appointing a new Ethics Commissioner, then the Selection Committee will be established as discussed in this report, with the intent of having a new Ethics Commissioner appointed in the first quarter of the new year. If Council decides on Option 2, to re-appoint the former Ethics Commissioner, Council may do so immediately by passing a resolution.

LEGAL SERVICES REVIEW

This report has been reviewed by Legal Services.

SUSTAINABILITY CONSIDERATIONS

The proposed Amendments support the objectives of the City's Sustainability Charter 2.0. In particular, the Amendments relate to the Sustainability Charter 2.0 theme of Inclusion. Specifically, the Amendments support the following Desired Outcome ("DO"):

- Community Pride and Engagement DO21: All residents have opportunities to be meaningfully engaged in civic issues and to contribute to community life.

CONCLUSION

Staff recommend that Council provide direction on whether it wishes to re-appoint the former Ethics Commissioner or to direct staff on other options as provided in the recommendations and discussed in this report.

Rob Costanzo
General Manager, Corporate Services

Appendix "I": RES.CC22-78; End of Term of the Surrey Ethics Commissioner

End of Term of the Surrey Ethics Commissioner

That Council:

Direct staff not to appoint a new Ethics Commissioner immediately after his term ends on July 13, 2022, so that the newly elected Council has an opportunity to determine the future of the Ethics Commissioner's office; and

Authorize staff to disclose to the public Council's decision.