

**TOWN OF MINTO**

DATE: June 29, 2016
REPORT TO: Mayor and Council
FROM: Bill White, CAO/Clerk
SUBJECT: Legal Services Agreement, Duncan Linton

STRATEGIC PLAN:

5.7 Adopt and maintain fair and transparent procurement policies and by-laws to ensure the Town receives competitive pricing on tenders and proposals, and that local business has equal opportunity to submit bids.

BACKGROUND

In 2012 after a comprehensive request for quotation, Council passed a by-law May 15, authorizing a legal services agreement with the firm of White Duncan Linton. The agreement expires May 15, 2017. The attached renewal request from the firm proposes a five year extension to the agreement with the following changes:

- Change firm name to Duncan Linton (White departed for another position)
- Designated Council now includes Patrick Kraemer; additional legal counsel added to replace those that have left the firm.
- Hourly rate increases from \$225 hour to \$235 per hour for Category 1 work (real estate and other more common legal services)
- Hourly rate for category 2 work fluctuates between \$235 and \$335 per hour depending on legal experience (Ontario Municipal Board Hearings and other Judicial bodies)

The following general terms remain in the agreement:

1. Legal services non-exclusive; Town gives notice if other law firms retained.
2. Main staff contact is the Chief Administrative Officer/Clerk.
3. Free educational session provided annually for updates and trends in municipal and planning law and outlines of amendments to legislation and regulations.
4. Town receives firm's Municipal Law eBulletin if published
5. For each file where legal services are requested, the firm will obtain instructions from Minto. Oral instructions on significant matters will be confirmed in writing.
6. Legal work assigned to the most appropriate lawyer for the issue, staff familiarity, experience, responsibility etc. Junior lawyers with lower hourly rates, under the supervision of senior counsel, will be used as appropriate.
7. Every request for legal advice reviewed within one business day and answered within a time frame acceptable to the parties.
8. Disbursements paid for long distance, postage, travel, copies, government filing and search charges etc. Town administrative resources can be used to reduce disbursement costs as appropriate.
9. Term of five (5) years, termination with 90 days written notice.
10. Save harmless and indemnity clauses by the firm for the Town and its agents apply.
11. All materials provided by Minto to the firm will be returned at contract expiration including confidential information.
12. Rules of Professional Conduct established by the Law Society of Upper Canada apply.
13. The Retention of Legal Counsel Policy forms part of the agreement.

COMMENTS:

Overall staff has found the services of Duncan Linton to be excellent. The Town did experience a backlog of real estate transactions for a few months, but that was corrected. Patrick Kraemer is the main legal counsel on most matters, and staff has found him very professional and thorough. He assigns work to junior counsel where appropriate and has been available for educational sessions from time to time as provided for in the agreement, including the 2015 Council orientation session. Where there have been any issues with time allocation, Patrick has been very willing to reach reasonable solutions.

FINANCIAL CONSIDERATIONS:

The Town had 33 land transactions in the last four years which represent 77% of all legal fees paid. In years previous real estate transactions were 13% of all legal fees paid. With Duncan Linton the Town spends about \$10,000 annually in fees for non-real estate matters, which is half of annual legal fees paid to previous counsel for such matters (reviewing agreements, court or OMB hearings, tax matters and similar).

RECOMMENDATION

That Council receives the report from the CAO/Clerk dated June 29, 2016 regarding Legal Services Agreement, Duncan Linton, and that a by-law is considered in regular session authorizing the Mayor and Clerk to sign a five year extension to the retainer agreement subject to the terms and conditions outlined.

Bill White, C.A.O. Clerk