



Hawkesbury City Council

ordinary meeting business paper late supplementary

date of meeting: 08 June 2004

location: council chambers

time: 7.00 p.m.

ORDINARY MEETING - Late Supplementary

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SECTION 4 - Reports for Determination

SUPPLEMENTARY REPORTS

Item: 70 ORG B - Engagement of In-house Solicitor (part-time, trial period) - (79351)

REPORT:

Council's arrangements with its legal advisers via "Panel" ceases at the end of 2004. For some time now, Council has entertained the concept of employing an in-house solicitor, but to date has not proceeded, partly because of cost, based on experience of other local authorities, and partly because of the need to access as broad an experience base (legally) as possible for the money spent.

As an overall comment, 1 (one) problem with Council using in-house solicitors on a straight employment basis is that the solicitors willing to take such a position are often at the lower end of the skill and experience range, i.e. the highly skilled Local Government lawyers are in private practice earning a lot of money. However, Council needs access to the highest level of experience and skill to ensure that an in-house position makes a significant value added contribution to the Council's business. Therefore, the arrangement proposed is designed to capture a high calibre candidate who is looking for a flexible work arrangement, but can provide a significant value-added service to the Council. An important point is that the candidate should be able to 'soak-up' a lot of legal work in the 1 (one) or 2 (two) days a week at Council. They will be able to guide the Council in order to prevent disputes, lessen the number of Land and Environment Court appeals, and significantly reduce the amount of legal work that has to be briefed out to external lawyers.

Management is of the view that it may be possible to engage in-house legal advice, based on the concept of part-time residence for a period of 12 (twelve) months, and is recommending that Council consider such on a trial basis.

Concept

The Local Government Act (1993) requires Council to tender for goods and/or services where the value exceeds \$100,000 (one hundred thousand dollars). For goods and services less than \$100,000 (one hundred thousand dollars) in value, Councils generally ask for expressions of interest.

It is suggested that Council, when asking for expressions of interest, indicates that the maximum amount payable for legal services during the trial period of 12 (twelve) months be limited to \$90,000 (ninety thousand dollars).

In calling for expressions of interest, it is further suggested the following parameters form the basis for comment by those parties wishing to respond to Council's invitation:

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The ability to advise Council on aspects of the Local Government Act (1993) and other relevant statutes, including the Environmental Planning and Assessment Act 1979, the Protection of the Environment Operations Act, the Trade Practices Act and other specific State and Commonwealth Acts commonly affecting the Council's operations.

- The ability to provide access to expert advice in addition to that offered by the successful applicant.
- The ability to physically attend Council premises for 1 (one) day per week, and possibly 2 (two), with expenses to be incurred on an hourly basis up to the maximum of \$90,000 (ninety thousand dollars) per annum during the trial period.
- An insistence that the applicant not act against the Council or in relation to a Council matter on behalf of another person under any circumstances.

The concept has the potential to provide Council with a more efficient and effective access to legal services, as:

- a. It concentrates interaction with Council's solicitors for up to 2 (two) days per week in Council's premises in Windsor.
- b. During the trial period the expenses are capped at \$90,000 (ninety thousand dollars) for 12 (twelve) months, during which time the effectiveness of the trial can be gauged.
- c. Although Council's annual legal expenses are in excess of \$200,000 (two hundred thousand dollars), that cost is incurred largely by contemplation of matters offsite of Council premises, with infrequent concentration of discussion between Council officers and their legal representatives face to face. This trial may impact positively on that process.
- d. In calling for expressions of interest, it is open to Council to request that potential applicants address the issue of how Council should treat that situation where additional costs may be incurred above the \$90,000 (ninety thousand dollars) per annum, and the relevance of the tender provisions of the Local Government Act (1993).
- e. Council is not disadvantaged in any way from seeking expressions of interest relating to this concept, because the decision as to whether or not to proceed is ultimately that of Council.

RECOMMENDATION:

That Council seek expressions of interest from qualified legal practitioners for the provision of legal services over a 12 (twelve) month trial period based on the following criteria:

- \$90,000 (ninety thousand dollars) expenditure cap for the 12 (twelve) month period.
- A requirement that applicants provide broad comment addressing the issues that they believe to be of merit in addressing the concept Council proposes, including provision of

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services beyond the \$90,000 (ninety thousand dollars) expenditure cap during the trial period, and the impact on the tendering provisions of the Local Government Act (1993).

- The ability to advise Council on aspects of the Local Government Act (1993) and other relevant statutes, including the Environmental Planning and Assessment Act 1979, the Protection of the Environment Operations Act, the Trade Practices Act and other specific State and Commonwealth Acts commonly affecting the Council's operations.
- The ability to provide access to expert advice in addition to that offered by the successful applicant.
- The ability to physically attend Council premises for one day per week, and possibly two, with expenses to be incurred on an hourly basis up to the maximum of \$90,000 (ninety thousand dollars) per annum during the trial period.
- An insistence that the applicant not act against the Council or in relation to a Council matter on behalf of another person under any circumstances.

ATTACHMENTS:

There are no supporting documents for this report.

oooO END OF REPORT Oooo

Item: 71 ORG B - Selection of Community Members for the Strategic Planning Committee - (79351)

Previous Item: 43, Special Meeting (15 April 2004)

REPORT:

Council at the Special Meeting on 15 April 2004 resolved that:

1. *Pursuant to Section 377 of the Local Government Act (1993), Council establish a Strategic Planning Committee comprising of 7 (seven) Councillors and 3 (three) members of the community relevantly qualified and recommended by the General Manager, and the General Manager.*
2. *Council adopt the draft constitution as set out in Attachment 1 to govern the operations of the Strategic Planning Committee.*
3. *That the following 7 (seven) Councillors be on the Strategic Planning Committee: Councillors Wearne, Devine, Calvert, Paine, Conolly, Bassett and Rasmussen.*

As part of the recommendations of the Corporate Assessment Report, Council also resolved at the Special Meeting to:

Conduct and complete a review of Council's Strategic Plan by December 2004, such review to include the development of Council's Vision, Objectives and Performance Measurement Criteria.

Advertisements calling for expressions of interest from community members to become representatives of the Strategic Planning Committee were placed in the local press during May 2004. Twelve (12) applications were received and 3 (three) community members have been recommended for appointment.

RECOMMENDATION:

That Mr Brian Lindsay (CPA), Mr Alan Eagle (Master of Management [UWS], B Bus [UWS]) and Mr Robert Woog (BSc.Ag.(Syd), M.Ag (Melb) and PhD), be appointed as community representatives on the Strategic Planning Committee to work in accordance with the constitution set out for that committee.

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ATTACHMENTS:

There are no supporting documents for this report.

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