

Staff Report

Presented By: Kara Van Myall, Chief Administrative Officer

Meeting Date: October 15, 2024

Subject: Municipal Solicitor Position Update

Attachment(s): None

Recommendation

That Council receive the Municipal Solicitor Position Update report for information.

Report Summary

The purpose of this report is to highlight the contributions made to the Corporation through the creation of the Municipal Solicitor role in 2024.

Background/Analysis

The role of Municipal Solicitor was created in 2024. This was a new role for the Town, having previously used external counsel to provide legal services. Reports to Council on [September 11, 2023](#) and [November 13, 2023](#) outlined the advantages to the corporation of an in house position. This report is to highlight the contributions made to the corporation in 2024.

During closed sessions on May 27, 2024 and September 9, 2024, the Municipal Solicitor provided status reports related to the ongoing litigation files that the Municipal Solicitor has been handling. The list of matters provided, as mentioned, was not exhaustive, as from time to time, in the normal course of advancing the day-to-day operations of the Corporation, there are threats of litigation made, which staff manage without the necessity of litigation, and which are brought forward by the appropriate staff person in a separate report. In addition to those matters, the Municipal Solicitor also provides other legal services, as outlined below:

1. Work Distribution and Volume

a) Number of Active Files

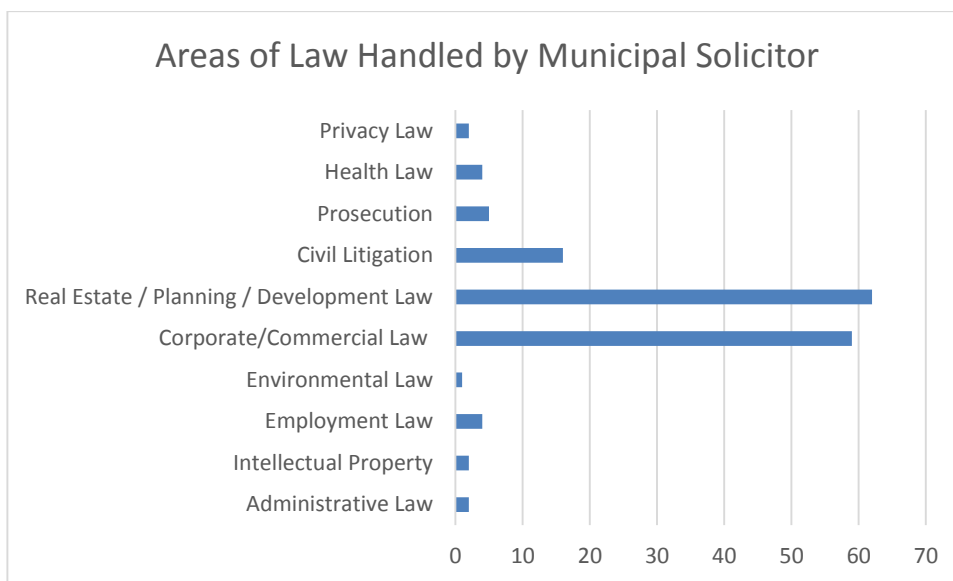
From February 2024 to late-September 2024, the Municipal Solicitor has 'opened' approximately 122 matters and provided some level of service on those matters. Some of those matters are completed while others remain ongoing. Please note that some of these 'opened' matters

involve extensive engagement by the Municipal Solicitor, including ongoing preparation of documents and engagement with third parties. This does not include those matters referred to under “Other Services” below.

b) Areas of Law

The chart below identifies the areas of law that the Municipal Solicitor addresses. Please note that there may be overlap, for example a litigation matter may involve real estate and so on. The “Corporate/Commercial” category covers a broad range of matters, including but not limited to, commercial contracts, leases, various agreements, bylaw drafting and corporate governance matters. The “Civil Litigation” refers to active litigation matters as well as threats of potential litigation. The “Real Estate / Planning / Development Law” is broad and encompasses title searches, preparing legal opinions related to roads, lanes, and other municipally owned and private property, registration of documents in the Land Registry System, addressing title conflicts and ownership issues, land acquisition and disposition, and so on. In addition, the Municipal Solicitor works with and supports other Town departments on property matters and specifically with the Planning and Development Department on planning applications and developments within Saugeen Shores.

The below is intended to provide a high-level summary of the areas of law that the Municipal Solicitor is involved in for the Town.



2. Other Services

In addition to the services provided above for which files are opened, the Municipal Solicitor also regularly reviews matters being brought forward by staff on the agendas for the regular Committee of the Whole and Council meetings and provides regular input, when deemed necessary. The Municipal Solicitor also provides answers to distinct questions by various internal staff from time to time for which a matter is not ‘opened’. These other legal services are not accounted for in Section 1 of this report above.

3. Status of Major Initiatives

There were two Major Initiatives in the annual Business Plan that were assigned to the Municipal Solicitor to advance in 2024:

- a) Parkland Acquisition Opportunities (north of river); and
- b) Fee for Service Review.

A separate status report related to the parkland acquisition opportunities initiative will be brought forward by the Municipal Solicitor in Q4.

With respect to the fee for service review initiative, an investigation was undertaken by the Municipal Solicitor of other municipalities who have internal legal departments to determine the following:

1. How do other municipalities calculate hourly rates for their internal solicitor?
2. What legal services are charged by municipalities?
3. What are the fees associated with the legal services charged?

The investigation undertaken involved contacting StrategyCorp, the consultant retained by the Town to conduct a review of the Town's current fees and charges and to make recommendations; sending inquiries to 70 in-house municipal solicitors; and reviewing the Fees and Charges By-laws for those municipalities known to have internal legal departments who charge for legal services.

The results of the investigation varied significantly in terms of the legal services provided, as well as the rates being charged – both hourly as well as block fees. Some factors that impacted the results were: the size of the legal department, whether the legal department had internal real estate clerks, the location of the municipality, and whether those municipalities in addition to internal counsel used external lawyers on matters. There was greater consistency with those municipalities that have large legal departments which include both lawyers and clerks and do not refer matters to external counsel. In addition, the higher fees were associated with large urban based municipalities notwithstanding the time to complete the work would be comparable.

In addition to the above investigation, the Municipal Solicitor has been regularly docketing for time spent on matters, as well as creating a list of the types of legal services that the Municipal Solicitor has provided and potentially could provide.

Recognizing that this is a new position for 2024, and there were no previous internal processes in place, the Municipal Solicitor has been working with the various internal departments to set up processes for the work, with the objective of streamlining the work, and setting up systems in place for reporting and billing. This remains ongoing as it involves other departments.

As outlined above, there is a significant amount of work being undertaken by the Municipal Solicitor, and the implementation of processes remains ongoing. It is therefore recommended

that the 2024 Major Initiative for Fee for Service Review be considered complete and that no fixed fees and charges be included in the 2025 Fees and Charges By-law for legal services. Currently, the Town's Fees and Charges By-law provide "actual cost" recovery for legal services provided by the Municipal Solicitor and therefore the Municipal Solicitor could recover costs on any matters involved in, if deemed appropriate to do so.

Linkages

- Strategic Plan Alignment: Strategic Pillar 2: Building the Best Municipal Team
- Business Plan Alignment: CAO Business as Usual

Financial Impacts/Source of Funding

No costs or revenue is associated with this report.

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