

**THE CORPORATION OF THE
TOWNSHIP OF MCGARRY
BY-LAW NO. 2008- 02**

BEING A BY-LAW TO APPOINT A MEETING INVESTIGATOR

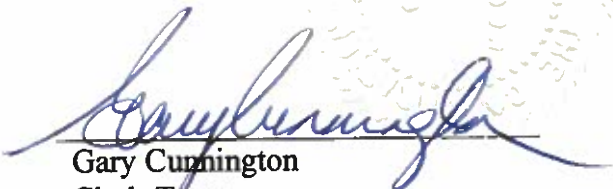
WHEREAS Section 239.2 of the Municipal Act 2001, as amended authorizes Council to appoint an investigator to investigate in an independent manner any complaint as to whether the Municipality has complied with the Act or a Municipal Procedural By-Law in respect of a meeting or part of a meeting that was closed to the public and to report on the investigation.

THEREFORE, Council of the Township of McGarry enacts as follows:

1. THAT Jo-Ann Thompson be appointed as the meeting INVESTIGATOR for the Municipality.
2. THAT the terms of the appointment are attached to as schedule "A" to this By-Law.
3. THAT the Reeve and Clerk be and are hereby authorized to execute the agreement on behalf of the Municipality.
4. THAT this By-Law shall take effect on January 1, 2008.

READ a first and second and third time this 15th day of January, 2008.


Clermont Lapointe
Reeve


Gary Cunningham
Clerk-Treasurer

Schedule "A" to By-Law 2008-02

Township of McGarry (hereinafter referred as a "Municipality")

and Jo-Ann Thompson (hereinafter called the "Independent Contractor")

WHEREAS

- (A) section 239.2 of the Municipal Act, 2001, S.O. 2001, c.25 (the "Act"), when proclaimed in force, authorizes the Municipality to appoint an investigator to investigate in an independent manner any complaint as to whether the Municipality has complied with the Act or a Municipal procedural by-law in respect of a meeting or part of a meeting that was closed to the public and to report on the investigation.
- (B) in appointing an investigator and in assigning powers and duties to her, a Municipality is to have regard to, among other things:
 - a. the investigator's independence and impartiality;
 - b. confidentiality with respect to the investigator's activities;
 - c. the credit ability of the investigator's investigative process;
- (C) the Municipality is satisfied that the Independent Contractor has the skills and ability to meet the foregoing criteria;

NOW THEREFORE the parties agree as follows:

- 1. **Services** - The Municipality hereby retain and appoint the Independent Contractor as an investigator for the purpose of Section 239.2 (1) of the Act and the Independent Contractor agrees to provide such services for an at the request of Municipality and accepts such appointment.
- 2. **Duties** - The duties of the Independent Contractor shall be:
 - (i) to conduct investigations from time to time on receipt of a complaint (a "Complaint") in respect of meetings or parts of meetings that are closed to the public to determine compliance with the Act or the Municipal procedural by-law and to report to determine compliance with the Act or the Municipal procedural by-law and to report on the results of such investigations;
 - (ii) in conducting such investigations, to have regard to the importance of the matters listed above in recital (B);
 - (iii) to proceed without undue delay and with due diligence to investigate a Complaint;
 - (iv) to conduct each investigation in private and to not disclose the identity of the complainant to any person/body unless written authorization to do so is obtained from the complainant.
 - (vi) to provide an opportunity to the Municipality or any person that may be adversely affected by a proposed report of the Independent Contractor, to make representations respecting such report or recommendations.
 - (vii) to preserve confidentiality and secrecy with respect to all matters that come to her disclosure of such matters as in the Independent Contractor's opinion ought to be disclosed in order to establish grounds for her conclusions and recommendations;
 - (viii) after making an investigation, the Independent Contractor shall render her opinion as to whether or not 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 or Municipal procedural by-law and, in either case, the Investigator shall report her opinion and the reasons for it to the applicable Municipality and shall make such recommendations she thinks fit.


In performing such duties, the Independent Contractor shall have to powers set out in Subsection 223.13 (6) and Sections 223.14 to 223.18 of the Act, copies of which are attached hereto as Schedule "A".

Fees

- a) Hourly Rate - The Independent Contractor shall be paid a fee of \$50.00 per hour plus applicable taxes during such time the Independent Contractor is performing her duties hereunder. The Independent Contractor agrees such rate shall be charged only for such time that the Independent Contractor is actively investigating a Complaint and preparing and presenting her report with respect thereto. The Independent Contractor shall not charge for travel time. The Independent Contractor would be entitled to be reimbursed other reasonable receipted expenses related to her duties.
- b) Responsibility for Payment - The Independent Contractor further covenants and agrees that his hourly fee and related expenses hereunder shall be paid by the Municipality. The Independent Contractor shall invoice the applicable Municipality upon completion of her report.
- c) Term - The term of this Agreement (the "Term") is for a fixed one (1) year term commencing the effective date of the proclamation by the Lieutenant Governor amending the Act by adding Sections 239.1 and 239.2 (the "commencement date") and ending on the first anniversary date thereof unless renewed and/or extended by agreement of all the parties. The Independent Contractor shall give at least 30 days written notice prior to the end of the Term of his intent not to renew this Agreement if such renewal were to be available.
- d) Taxes - All amounts payable to the Independent Contractor shall be paid without deduction. The Independent Contractor shall be responsible for any contributions imposed or required under employment insurance, health tax, social insurance, income tax laws, Worker's Compensation (if elected to enrol), pension with respect to any amounts paid to the parties to this Agreement to deduct or remit any statutory or government remittances.
- e) Independent Contractor - The Independent Contractor is a contractor independent of the Municipalities. Nothing herein shall be interpreted to create a relationship of employer/employee, partnership, franchise, agency or joint venture or other like arrangement.
- f) Delegation - In the event more than one Complaint is made at any one time requiring more than one investigation, either the same or more than one Municipality, and the Independent Contractor determines it to be necessary to delegate some or all of her powers and duties, then she may do so in writing to any person other than a member of council, provided that the person to whom such delegation is made agrees in writing to be governed by the same duties of secrecy as the Independent Contractor and to abide the terms and conditions of this Agreement. Such person shall always be under the supervision and direction of the Independent Contractor. Such delegation shall not be to a member of council of any Municipality and shall not result in any additional costs or fees to the Municipality. Invoices shall be rendered by the Independent Contractor and payments made to the Independent Contractor and the Independent Contractor shall otherwise be responsible for the fees and disbursements of any her delegates.
- h) Binding - This agreement shall enure to the benefit of and bind the parties and their respective heirs, successors and permitted assigns.
- I) Indemnification - The Municipality agrees to indemnify and save harmless the Independent Contractor, its agents and assigns and against any and all liabilities, losses, suits, claims, demands, damages, expenses, costs (including all legal costs), fines and actions of any kind or nature whatsoever arising out of or in connection with the Independent Contractor's provision of services and carrying out of its duties including, but not limited to, any alleged breach of this agreement, any procedural defect or other breach of relevant statutory provisions.

j) Entire Agreement - This Agreement contains the entire agreement between the parties and supersedes all previous negotiations, understandings and agreements, and verbal or written with respect to any matters referred to in this agreement.


IN THE WITNESS WHEREOF each of the parties hereto have set its hand and seal as of this 15th day of January, 2008.


Reeve


Clerk

The Independent Contractor hereby accepts and agrees to the terms and conditions herein contained.

DATED: January 15th, 2008


Witness
