A. Recommendations

THAT Council receive Staff Report FAF.19.204, entitled “Establishing a Legal Services Department”;

AND THAT Council endorse the development of a Legal Services Department to be included in the Town’s Organizational Chart as shown in Attachment 1 of this report;

AND THAT Council approve the position of Director of Legal Services as outlined in the Job Description as presented in Attachment 2 of this report and authorize staff to initiate the recruitment process immediately;

AND THAT Council approve the position of Legal Services Clerk as outlined in the Job Description as presented in Attachment 3 of this report with the intent to fill the position after the Director of Legal Services is in place;

or

AND THAT Council direct staff to include the position of Director of Legal Services as outlined in the Job Description as presented in Attachment 2 of this report as an additional staffing request for Council consideration through the 2020 Budget process;

AND THAT Council direct staff to include the position of Legal Services Clerk as outlined in the Job Description as presented in Attachment 3 of this report as an additional staffing request for Council consideration through the 2020 Budget process;

AND THAT Council direct staff to bring forward an overview of potential staffing resources and structure for consideration through the 2020 proposed Budget process to enhance overall By-law Enforcement Services for the Town.
B. Overview

The purpose of this report is to request approval to establish a Legal Service Department to increase efficiencies and provide in-house generalist expertise for Town Legal Services and provide direct support and guidance to the Town By-law Division.

C. Background

The Town currently utilizes a range of external Legal services and does currently have an in-house contract position that deals mainly with development services in particular Development Agreements.

Over the past number of months, Council has identified the desire to consider the enhancement of Legal Services. Staff is bringing forward this report as a result of considering next steps, and ultimately proposing the establishment of a Legal Service Department.

Recent restructuring of the Corporate Structure has allowed Management to review service deliveries and staff resources while considering the overall impacts of a revised and enhanced Licensing By-law.

An increased level of incidents such as reporting of destruction of trees, use of municipal lands, building related infractions, reports of noise, etc have been considered through this review. Management is recommending that with the proposed establishment of a Legal Services Department, that By-law staff would report directly through the proposed Legal Services Department.

D. Analysis

As outlined in the recommendations of this report, options are provided to Council to consider the establishment of a Legal Services Department as part of the overall Corporate Organizational Structure. The options to be considered by Council are as follows;

a) Establish a Legal Services Department including the addition of a Director of Legal Services and Legal Services Clerk immediately; or
b) Consider the establishment of a Legal Services Department including the addition of a Director of Legal Services and Legal Services Clerk through the 2020 Budget deliberations.

The intent through this proposed establishment of a Legal Services Department would be to have the Town’s By-law Division report to the Director of Legal Services.

In reviewing previous legal services costs to the Town, staff has identified a range of areas of expertise that legal services have been retained for.

It is essential to note that the Town would still need to retain legal services for areas of expertise such as provision of legal counsel for Local Planning Appeals Tribunals (LPAT) for Planning Appeals as well as other Appeals such as the Development Charge Review Study.
The hiring of a generalist in law would provide significant efficiencies in timely reviews and effectiveness in moving forward ideally with remedy based solutions and or timely responses to enhance customer services.

The efficiencies anticipated are both from the perspective of reduction of staff time required to consider subject matter and also the expenditures of retaining legal services for a range of subjects as follows;

- Municipal Act Interpretations
- Real Estate
- Creation of Development Agreement
- Agreements for Land Use,
- consideration of Legal non-conforming interpretations,
- drafting of legal agreements,
- consideration of Freedom of Information requests
- guidance on procedural issues

<table>
<thead>
<tr>
<th>Year</th>
<th>Expenses each year for non-LPAT or Specialized Legal Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>$63,957</td>
</tr>
<tr>
<td>2014</td>
<td>$37,054</td>
</tr>
<tr>
<td>2015</td>
<td>$75,731</td>
</tr>
<tr>
<td>2016</td>
<td>$87,091</td>
</tr>
<tr>
<td>2017</td>
<td>$93,443</td>
</tr>
<tr>
<td>2018</td>
<td>$87,105</td>
</tr>
<tr>
<td>2019</td>
<td>$45,000</td>
</tr>
</tbody>
</table>

The Director of Legal Services would also be delegated as the “Head” for the Municipal Freedom of Information and Protection of Privacy Act. This delegation would be removed from the current “Town Clerk”.

In addition to the Director of Legal Services position, staff is also recommending that a new position being a Legal Services Clerk to the Director of Legal Services be established to ensure that adequate administrative staffing is in place to allow for the flow of work, in particular work relating to Freedom of Information requests can be achieved in a timely fashion in addition to work related to Corporate Legal matters.
Efficiencies and resources to Administration Department & Town Clerk

Current use of Clerks staff for Freedom of Information

Significant efficiencies would be realized in the Administration Department in particular relating to the Town Clerk and Deputy Clerk. As previously noted, currently the Town Clerk is designated as the “Head” under the Municipal Freedom of Information and Protection of Privacy Act. The Town Clerk and the Deputy Clerk complete the duties legislated under the Municipal Freedom of Information and Protection of Privacy Act. It is typical that these duties include review of relevant emails, tracking and collection of all related communications and notes from staff including both internal and external communications, vetting of all materials to ensure appropriate and allowable release of information and ultimately the releasing of relevant materials to the requestor. This process may also result in an appeal to the Information and Privacy Commissioner of Ontario “IPC” where the requestor is not satisfied with the Town’s response. Significant staff time throughout the organization is required to complete the initial response to the request for information process, however the Clerks Department is tasked with the majority of the processing and reporting. Specific time lines are mandated for the “Head” to provide response and submit all relevant materials.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Freedom of Information Requests</th>
<th>Number of Appeals to the Information and Privacy Commissioner of Ontario</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>5</td>
<td>0</td>
</tr>
<tr>
<td>2011</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>2012</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>2013</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>2014</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>2015</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>2016</td>
<td>14</td>
<td>6</td>
</tr>
<tr>
<td>2017</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>2018</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>2019</td>
<td>8</td>
<td>4</td>
</tr>
</tbody>
</table>

It is important to emphasis with consideration of this report, that Freedom of Information Requests cannot be anticipated or scheduled in annual work plans. The chart above identifies the number of Freedom of Information requests since 2010. The chart also identifies the number of appeals. The tasks completed through the required processes have caused significant strains to existing staffing resources for a number of years, including additional hours
of work that are not cost recovered and require additional hours of work during evening hours and weekends. This work relates to extremely confidential information and requires review of private and sensitive material.

These averages include a range of staff required depending on the subject matter. As of mid-2019, staff now are tracking hours specific to tasks and exact hours will be available moving forward.

<table>
<thead>
<tr>
<th>Average time for staff resources for each Freedom of Information request</th>
<th>Average time for staff resources for each Freedom of Information request</th>
<th>Average costs in staff resources at average at 9 per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>70 hours on average per request</td>
<td>total staff time $4,650 per request</td>
<td>$41,850 per year average</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Average time for staff resources for each Freedom of Information request</th>
<th>Average time for staff resources for each Freedom of Information request</th>
<th>Average costs in staff resources at average at 3 per year</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Appeal”</td>
<td>“Appeal”</td>
<td>“Appeal”</td>
</tr>
<tr>
<td>30 hours on average per request</td>
<td>average staff time of $2,100 per request</td>
<td>$6,300 per year average</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total $48,150 on average annually</td>
</tr>
</tbody>
</table>

In addition, through the consideration of the Towns Procedural By-law that is currently being revised, the direction from Council has been to amend the regular scheduling of Committee of the Whole and Council meetings. The proposed revision would result in 44 regularly scheduled meetings compared to 30 regular scheduled meetings in 2019. Each meeting will require the typical preparation of all meeting agenda, minutes and advertising that currently are completed by the Clerks Department.

Ideally, as a result of the increase of regularly scheduled meeting, the reduction of Special Meetings of Council and Special Meetings of Committee of the Whole should be reduced to provide efficiencies.
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Committee of the Whole Meetings</th>
<th>Number of Council Meetings</th>
<th>Total number of Scheduled Meetings</th>
<th>Number of Special Meetings of Council and Committee of the Whole</th>
<th>Total number of Meetings</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010 *</td>
<td>N/A</td>
<td>22</td>
<td>N/A</td>
<td>9</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>N/A</td>
<td>23</td>
<td>N/A</td>
<td>26</td>
<td>49</td>
</tr>
<tr>
<td></td>
<td>***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>N/A</td>
<td>18</td>
<td>N/A</td>
<td>9</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>2</td>
<td>15</td>
<td>17</td>
<td>12</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>16</td>
<td>14</td>
<td>30</td>
<td>18</td>
<td>48</td>
</tr>
<tr>
<td>2015*</td>
<td>16</td>
<td>15</td>
<td>31</td>
<td>29</td>
<td>60</td>
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<tr>
<td>2016</td>
<td>20</td>
<td>15</td>
<td>35</td>
<td>32</td>
<td>67</td>
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<tr>
<td>2017</td>
<td>19</td>
<td>15</td>
<td>34</td>
<td>34</td>
<td>68</td>
</tr>
<tr>
<td>2018*</td>
<td>20</td>
<td>14</td>
<td>34</td>
<td>26</td>
<td>60</td>
</tr>
<tr>
<td>2019*</td>
<td>15**</td>
<td>15**</td>
<td>30</td>
<td>33 to date</td>
<td>63 to date</td>
</tr>
<tr>
<td>2020 as proposed</td>
<td>22</td>
<td>22</td>
<td>44</td>
<td>anticipate 10</td>
<td>54</td>
</tr>
</tbody>
</table>

* New Term of Council with Orientation Meetings
** Including all 2019 scheduled meetings
*** Prior to Committee of the Whole Structure

The addition of in-house Legal Services will provide significant benefit to allow for efficient and timely management of the municipality.

Management is also recommending that Council direct staff to bring forward a review of the existing structure and staffing resources for By-law Enforcement for consideration through the 2020 proposed Budget to enhance overall By-law enforcement services for the Town. The timing of the review through the 2020 proposed budget will be aligned with consideration of
the Municipal Licensing By-law, consideration of a Municipal Administrative Penalty Tribunal and the annual establishment of Fees and Charges By-law.

E. The Blue Mountains Strategic Plan

Goal #2: Engage Our Communities & Partners
Objective #1 Improve External Communication with our Constituents

Goal #3: Support Healthy Lifestyles
Objective #3 Manage Growth and Promote Smart Growth
Objective #4 Commit to Sustainability

Goal #4: Promote a Culture of Organizational & Operational Excellence
Objective #1 To Be an Employer of Choice
Objective #2 Improve Internal Communications Across our Organization
Objective #3 To Consistently Deliver Excellent Customer Service
Objective #4 To Be a Financially Responsible Organization
Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None at this time

G. Financial Impact

<table>
<thead>
<tr>
<th>Position</th>
<th>Proposed Position</th>
<th>Current Salary &amp; Benefits</th>
<th>New Annual Salary &amp; Benefits</th>
<th>Efficiencies found</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director of Legal Services</td>
<td>Proposed</td>
<td>N/A</td>
<td>$185,790</td>
<td>N/A</td>
</tr>
<tr>
<td>Legal Services Clerk</td>
<td>Proposed</td>
<td>N/A</td>
<td>$88,952</td>
<td>N/A</td>
</tr>
<tr>
<td>Use of external legal services for non LPAT related matters</td>
<td>Current external costs</td>
<td>N/A</td>
<td>N/A</td>
<td>Estimated average of $75,000 annually</td>
</tr>
<tr>
<td>Use of external legal services specific to Freedom of Information Requests</td>
<td>Current external costs</td>
<td>N/A</td>
<td>N/A</td>
<td>Estimated average of $10,000 annually</td>
</tr>
<tr>
<td>Efficiencies through Corporate Restructuring</td>
<td></td>
<td></td>
<td></td>
<td>216,494</td>
</tr>
<tr>
<td>Position</td>
<td>Proposed Position</td>
<td>Current Salary &amp; Benefits</td>
<td>New Annual Salary &amp; Benefits</td>
<td>Efficiencies found</td>
</tr>
<tr>
<td>----------</td>
<td>-------------------</td>
<td>--------------------------</td>
<td>-----------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$216,494</td>
<td>$274,742</td>
<td>$301,494</td>
</tr>
</tbody>
</table>

With consideration of benefits included in staff costs, it is anticipated an overall efficiency of approximately $26,500.00 will be realized.

As contained in the recommendation, a review of the By-law Enforcement Department has been identified and it is anticipated that additional costs will be proposed to enhance the level of By-law enforcement services. It is recommended that this review and consideration be completed through the 2020 Budget process.

**H. In consultation with**

Senior Management Team

**I. Public Engagement**

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. However, any comments regarding this report should be submitted to Shawn Everitt, cao@thebluemountains.ca.

**J. Attached**

1. Proposed Organizational Chart
2. Draft Job Description for Director of Legal Services
3. Draft Job Description for Legal Services Clerk

Respectfully Submitted,

Shawn Everitt  
Chief Administrative Officer

For more information, please contact:  
cao@thebluemountains.ca  
519-599-3131 extension 234
Job Description
Director of Legal Services

Department: Legal Services
Reports To: Chief Administrative Officer
Date Approved: under review
Job Grade: Grade 16

Position Summary

- Held ultimately accountable for all activities related to the Legal Services Department, including responsibility for the development and implementation of all Legal Services provided to the Town.

- Provide guidance and direction to the Towns By-law Enforcement Team

- Inspire Department Staff to achieve high performance.

Key Duties and Responsibilities

- Champion the Corporate Mission and Values within the Legal Services Department and across the Corporation as a whole.

- Maintaining strong communications and relationship with the Towns Integrity Commissioner and the Ombudsman.

- Provide leadership to all departmental staff including delegation of work assignments, performance management, training and development. Has the authority to discipline, and/or transfer departmental staff in line with current Town policy. Is responsible to ensure that employees are working in compliance with health and safety policies and practices.

- Provide advice and direction on legal matters for all departments to Council, CAO and Directors.

- Identify and manage the resolution of legal issues affecting the corporation.

- Draft, review and edit legal agreements and contracts for all internal departments and provide advice to Committees where appropriate.

- Draft and present by-laws, contracts, policies and protocols of municipal interest.
• Proactively monitor and advise on developments related to municipal interests.

• Provide oversight and strategic advice to the negotiation of collective agreements, arbitration and mediation matters.

• Undertake litigation on the Town’s behalf where appropriate.

• Oversee and provide input into the retainer of outside legal counsel services as required.

• Maintain knowledge and skill at a high level with training and development through courses, workshops and selected reading.

• Assess staffing needs and recommend changes to complement and/or major organizational design changes. Will review hiring recommendations and may participate in the recruitment and selection process; approves final hiring decisions.

• Mentor and coach staff to ensure professional growth and succession planning.

• Lead the development of long-term plans. Authorize and/or recommend to Council on same, in line with current Town policy.

• Responsible for ensuring the completion of the following: Prepare, review, recommend and implement annual capital and operating budgets, forecasts and potential funding sources. Monitor and administer approved departmental budgets and report on same. Authorize payments of accounts.

• Provide leadership in developing the goals and required outcomes of collective bargaining, ensuring that productive and positive relationships are maintained.

• Liaise with other departments/levels of government, utilities, or authorities on matters relating to the Corporate Legal Services Department.

• Provide regular Department updates to the Council twice annually through Closed Session Meeting reports.

• Member of the Emergency Management Control Group, as outlined in the Town’s Emergency Plan.

• Promotes a high standard of customer service to the public as well as to all internal customers.

• Personally, comply with all health and safety practices as it relates to the work, standard operating guidelines and the Occupational Health and Safety Act.

• Performs other duties as required.

**Job Details**

**Hours of Work:** Standard work week Monday to Friday from 8:30 – 4:30 with a 1 hour
lunch break. Will occasionally be required to attend meetings after hours.

**Direct Reports:** 3 FT Employee.

**Overtime:** Not Applicable (Time in Lieu)

**Driver’s License**
- Required: Yes
- Class: G

**Education and Experience:**

- A law degree (LL.B.) or Juris Doctor (J.D.) from an accredited post-secondary institution as well as membership in good standing with the Law Society of Ontario.

- Experience working in a municipal environment governed by legislation and legislative rules.

- Experience and understanding processes relating to the Integrity Commissioner and Ombudsman within the municipal context.


- Specific experience in municipal law and real estate law required with some experience in litigation and/or planning and development law, as well as drafting, negotiating and advising on various types of contracts.

- Experience with court procedures in Ontario Courts and Tribunals, and knowledge of law enforcement procedures.

- Knowledge of Integrity Commissioner and Ombudsman processes
Job Description
Legal Services Clerk

Department: Legal Services
Reports To: Director of Legal Services
Date Approved: under consideration
Job Grade: Grade 7 suggested

Position Summary

• Help the Town achieve higher performance by supporting the Director of Legal Services in his/her administrative duties.

• Provide confidential administrative support, research and coordination as required within the Legal Services Department.

Key Duties and Responsibilities

• Administrative support for the Director of Legal Services. Typing correspondence, taking of minutes, creating reports, filing and answering phones for all staff. Coordinating and relaying information from the Director of Legal Services to other town staff.

• Under the supervision and direction of the Director of Legal Services, lead in the coordination and process of collecting, reviewing, redacting, and submitting of all required and appropriate information and material as required under the Municipal Freedom of Information and Protection of Privacy Act.

• Lead in the coordination of scheduling and minute taking of municipal tribunals relating to Municipal By-laws and Administrative Monetary Penalties.

• Assist in the development and standardization of department policies and procedures by researching and helping with the wording and preparation of such documents.

• Ensure office supplies are available and order when needed.

• Responsible for ensuring documents within the Legal Services Department are in an accessible format, as per the Accessibility for Ontarians with Disabilities Act (AODA), including the, Policies, Staff Reports, and all material posted to the Town’s website.

• Act at the website administrator for the Legal Services Department to update, post, and change content as requested.
• Administer the Town’s Record Retention process and storage procedure for the Legal Services Department.

• Coordinate and prepare information and reports for department meetings, committees, project teams, and other department and/or public meetings as required.

• This assistance may include: backing up other staff, responding to queries regarding the department, and providing advice to staff on department policies.

• Promotes a high standard of customer service to the public as well as to all internal customers.

• Personally comply with all health and safety practices as it relates to the work, standard operating guidelines and the Occupational Health and Safety Act.

• Performs other duties as required.

**Job Details**

<table>
<thead>
<tr>
<th>Hours of Work:</th>
<th>Standard work week Monday to Friday from 8:30 – 4:30 with a 1 hour unpaid lunch break.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct Reports:</td>
<td>0</td>
</tr>
<tr>
<td>Overtime:</td>
<td>Applicable</td>
</tr>
<tr>
<td>Driver’s License</td>
<td>Required: Yes Class: G</td>
</tr>
</tbody>
</table>

**Education and Experience:**

• Requires minimum of 2 years post-secondary education for Law Clerk.

• A minimum of 5 years of administrative experience in a Legal Office or a municipal administration environment at an administrative assistant for a Director level.

• Requires at least two years’ experience in dealing with public inquiries and concerns, preference will be given to those with municipal experience.

• Experience working with highly confidential and sensitive information.

• Word processing, spreadsheet and database computer skills required.

• Must have good organizational skills to maintain records and ensure reports are completed in a timely manner.

• Valid Class ‘G’ Driver’s license in good standing and reliable vehicle to use on corporate business.

• Fluency in creating accessible documents to meet the Town’s legal obligations under the Information and Communications component of the Integrated Accessibility Standard Regulation
• Requires good attention to detail, organization and communication skills. Ability to work well with people at all levels in the hierarchy and handle the stresses and pressures that are associated with the position with maturity and a positive attitude.

• Ability to work independently with minimal supervision