

2. COUNCIL EXPENSE POLICY AND COMMUNITY, FUNDRAISING AND SPECIAL EVENTS POLICY

POLITIQUE SUR LES DÉPENSES DU CONSEIL ET POLITIQUE SUR LES ACTIVITÉS SPÉCIALES, COMMUNAUTAIRES ET DE FINANCEMENT DU CONSEIL

COMMITTEE RECOMMENDATIONS AS AMENDED

That Council approve:

1. The Council Expense Policy, as detailed in Document 1 and outlined in this report; and
2. The Community, Fundraising and Special Events Policy, as detailed in Document 2 and outlined in this report and as amended by the following:

That the seventh bullet (p. 57) be amended to read:

“In an election year, a Member of Council must not seek donations and sponsorships for any event that has not been staged in the previous two years, nor accept donations or stage any “new” event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Ottawa.”.

RECOMMANDATIONS MODIFIÉES DU COMITÉ

Que le Conseil approuve :

1. la Politique sur les dépenses du Conseil, comme le décrit le Document 1 et le souligne le présent rapport; et
2. la Politique sur les activités spéciales, communautaires et de financement du Conseil, comme le décrit le Document 2 et le souligne le présent rapport et tel que modifiée par ce qui suit :

**Que le septième point (p. 57) soit modifié de façon qu'il se lise
comme suit :**

**« Durant une année d'élections, un membre du Conseil ne doit pas
solliciter de dons ni de commandites pour un événement n'ayant pas
été présenté au cours des deux années précédentes, de même qu'il
ne doit pas accepter de dons ni présenter de « nouvel » événement
financé au moyen de dons et de commandites après avoir déposé sa
déclaration de candidature à un poste électif à la Ville d'Ottawa. »**

DOCUMENTATION

1. M. Rick O'Connor, City Clerk and Solicitor and Robert Marleau, Integrity Commissioner report dated 18 April 2013 (ACS2013-CMR-CCB-0029) / Rapport de M. Rick O'Connor, Greffier municipal & chef du contentieux et Robert Marleau, Commissaire d'intégrité daté du 18 avril 2013 (ACS2013-CMR-CCB-0029).
2. Extract of Draft Joint Minute of 25 April 2013 / Extrait de l'ébauche du procès-verbal conjoint du 25 avril 2013.

Report to/Rapport au :

Governance Renewal Sub-Committee
Sous-comité du renouvellement de la gouvernance

Finance and Economic Development Committee
Comité des finances et du développement économique

and Council / et au Conseil

April 18, 2013
18 avril 2013

Submitted by/Soumis par : M. Rick O'Connor, City Clerk and Solicitor /
Greffier municipal & chef du contentieux

Robert Marleau, Integrity Commissioner / Commissaire d'intégrité

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CITY WIDE / À L'ÉCHELLE DE LA VILLE

Ref N°: ACS2013-CMR-CCB-0029

**SUBJECT: COUNCIL EXPENSE POLICY AND COMMUNITY, FUNDRAISING
AND SPECIAL EVENTS POLICY**

**OBJET : POLITIQUE SUR LES DÉPENSES DU CONSEIL ET POLITIQUE
SUR LES ACTIVITÉS SPÉCIALES, COMMUNAUTAIRES ET DE
FINANCEMENT DU CONSEIL**

REPORT RECOMMENDATIONS

That the Joint Governance Renewal Sub-Committee and Finance and Economic Development Committee recommend that Council approve:

1. The Council Expense Policy, as detailed in Document 1 and outlined in this report; and

- 2. The Community, Fundraising and Special Events Policy, as detailed in Document 2 and outlined in this report.**

RECOMMANDATIONS DU RAPPORT

Que le Sous-comité du renouvellement de la gouvernance et le Comité des finances et du développement économique en réunion conjointe recommandent au Conseil d'approuver:

- 1. la Politique sur les dépenses du Conseil, comme le décrit le Document 1 et le souligne le présent rapport; et**
- 2. la Politique sur les activités spéciales, communautaires et de financement du Conseil, comme le décrit le Document 2 et le souligne le présent rapport.**

EXECUTIVE SUMMARY

Members of Council are each provided with a Constituency Services Budget with which to operate their respective offices. The Constituency Services Budget provides Members with resources required to support their role, enabling them to communicate with constituents about the meetings and activities of City Council and City Hall; assist with and lead activities that enhance the communities in their wards; represent the City at functions and events; and administer their offices to serve their constituents and support their legislative role.

As part of the 2010-2014 Governance Review, City Council endorsed an Accountability Framework that includes a Code of Conduct for Members of Council, an Integrity Commissioner, public disclosure of office expenses, and a low-cost lobbyist registry and gifts registry.

Members of Council have been disclosing their expenses monthly since January 2011 and have approved specific guidelines for this disclosure including the level of detail that must be provided for certain expenses. City Council established the Lobbyist Registry and created the office of Integrity Commissioner on July 11, 2012.

The Integrity Commissioner was tasked with creating a Code of Conduct for Members of Council, and providing input into any related policies, including the Expense Policy and Gifts Registry. Following Council adoption of these policies, the Integrity Commissioner will oversee their implementation, providing advice to Members of Council, issuing interpretations and, where necessary, investigating complaints and

recommending sanctions. The Integrity Commissioner also acts as the City's Lobbyist Registrar and Meetings Investigator.

On August 29, 2012, the City Clerk and Solicitor announced the appointment of Mr. Robert Marleau as the City's Integrity Commissioner. Mr. Marleau has 32 years of parliamentary experience, including 13 years spent as the Clerk of the House of Commons. He has also served as the interim Privacy Commissioner of Canada and as the Information Commissioner of Canada.

The Integrity Commissioner and City staff have worked together to develop recommendations on the remaining pieces of the Accountability Framework, namely the Code of Conduct, the Gifts Registry and the Expense Policy, for Council's consideration. As part of this work, it was determined that a Community, Fundraising and Special Events Policy would further enhance the Framework.

Although the Code of Conduct and Gifts Registry are within the jurisdiction of the Integrity Commissioner and the Expense Policy and the Community, Fundraising and Special Events Policy will be administered by the City Clerk and Solicitor and the Deputy City Clerk, all of the recommendations have been developed jointly, to be consistent with one another and with the other elements of the Framework.

Proposed Expense Policy for Members of Council

The proposed Council Expense Policy guides how Members of Council can spend their Constituency Services Budget. Currently, Councillors are guided in their spending by the Council Office Manual as well as the *Election-Related Resources Policy*. However, the Office Manual was last updated by the Member Services Sub-Committee in November 2005 and is out of date. Although some of the basic elements of the Office Manual are still relevant, it does not include a number of practices that have been put in place over the years.

Members of Council will already be familiar with most of the elements of the draft Expense Policy, as they reflect current practices. Some new elements provide for increased public disclosure for Members' expenses, in keeping with the principles of Routine and Pro-active Disclosure approved by Council as part of the Mid-term Governance Review, while others reflect best practices in documentation resulting from audits of the House of Commons, the Senate and the City of Winnipeg, and the remainder are being recommended to be consistent with the rest of the Accountability Framework.

The proposed Policy is based on the assumption that Members are accountable to the public and their constituents and not to the City administration. It incorporates the understanding that each Member of Council represents a specific constituency and that

each constituency has different needs, and that the roles of the Mayor and Ward Councillors are different.

The proposed Policy is based on five principles that will be applied when interpreting the policy:

- City Council is an autonomous body and is separate and distinct from the City administration;
- The integrity of City Council as a whole and the offices of the Members must be protected and the interest of City Council as a whole takes precedence over the personal interest of individual Members of Council;
- Members are the stewards of City resources and are ultimately accountable to their constituents for the type and level of expense they incur. Public funds should be spent exclusively for the fulfillment of public duties and spending should be reasonable, business-related and reflect what the public expects of an elected official;
- The public has a right to know how public funds allocated to Members are spent; and the public's right to Members' expense information must be balanced against the need to protect privacy and personal information and allow time for proper accounting and reconciliation of expenses; and
- Although Members of Council need flexibility to perform their roles and engage their communities differently, it is important that all accounting, audit and tax principles/rules and legislation and policies are followed.

Staff also recognizes that no policy adequately covers all situations. Therefore, it is recommended that it be possible for Members to be granted an exemption to any part of the Council Expense Policy. The exemption would be granted by the City Clerk and Solicitor and/or the Deputy City Clerk, in consultation with the Integrity Commissioner as necessary, and be provided in writing.

As indicated, Members will be familiar with most of the provisions of the proposed Council Expense Policy as they reflect current practices – personal expenses are not allowed, assets are the property of the office and not the individual, proper invoicing and receipting are mandatory requirements for reimbursement, etc. The proposed Policy reinforces the existing rules and restrictions surrounding Corporate/Purchasing Cards as well as a Member's personal liability with respect to any budget overages.

In addition, there are a number of specific elements that have been incorporated either to proactively address issues that have occurred in other jurisdictions, to respond to

frequently asked questions from current Members and their staff or to highlight a recommended change in practice. Highlights of the proposed Policy include:

- **Members cannot purchase goods or services from a family member** – The proposed Policy specifies that Members shall not incur expenses that create a conflict, or appear to create a conflict arising from the purchase of goods or services from a family member or a family member of one of their staff. This has been an issue in other municipalities.
- **Members will not be able to donate funds that will personally benefit individuals or businesses** – Although use of a Member's Constituency Services Budget to provide a tax-supported personal benefit to individual citizens or for-profit business has been discouraged in the past, no rule has existed. The proposed Policy prohibits providing a personal benefit to specific citizens or business (e.g. payment of tax penalties, parking tickets, sponsorship of personal travel, etc.)
- **Donations to charities shall be made by way of a City-issued cheque** – In order to address frequent questions regarding charitable receipts and based on recommendations from audits in other jurisdictions, the proposed Policy specifies that all donations to charities shall be made by way of a City-issued cheque or purchasing card payment and all receipts shall be made out to the City of Ottawa.
- **Communications and Advertising outside of Ward** – The proposed Policy does not allow for the use of a Member's Budget for the purpose of communicating within another Member's ward (though it is recognized that community newspaper circulation and some unaddressed postal walks will cross ward boundaries). This proactively addresses issues that were raised following the previous ward boundary review whereby Members were mailing into those parts of another Councillor's ward that would be in 'their' ward after the next election.
- **Appropriate Documentation must be provided** – Proper documentation has surfaced as a common concern in other jurisdictions. Documentation is important both to ensure proper accounting of the use of public funds and to ensure the City receives the rebate for sales tax to which it is entitled. While original receipts, etc. are currently required, the proposed Policy provides more specific details about all the documentation that is required. This provision is anticipated to be of particular assistance to Members' staff.
- **Increased Public Disclosure** - The Public Disclosure requirements in the proposed Policy are based on the notion of increased transparency as opposed to establishing rules. The proposed changes to public disclosure requirements, as well as the

documentation requirements indicated in this section, are based on best practices in other jurisdictions, as follows:

- Contributions and Sponsorship
 - Contributions will be accompanied by a request from the organization with details about the group and the purpose of the contribution.
- Hospitality offered by Members
 - The business purpose and date for the meeting expense will be identified;
 - The original itemized receipt indicating items consumed and total cost will be provided;
 - The name and location of establishment; and
 - Full name of all participants attending the meeting must be provided, as well as their affiliation if they are representing an organization or business. The names of individuals receiving hospitality are not confidential.
- Special Events attended by Members
 - Exact name of the event must be provided;
 - Date and location of the event must be provided;
 - The name of any individual who attended with the Member must be provided;
 - Detailed receipts and invoices of any expenses incurred; and
 - A copy of tickets purchased.
- Travel
 - All City-related business travel will be disclosed, no matter which budget the travel is funded from;
 - The meeting location, the duration, and the purpose will be identified;
 - Travel reimbursement must include any itinerary confirming travel dates and airline booking, an original hotel invoice itemizing room costs and other incidentals, conference brochure confirming the cost and conference date and taxi / parking receipts; and

- Members must report to the Integrity Commissioner, before the first date of travel, all travel costs funded by an eligible body under the Code of Conduct (i.e. provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is speaking in an official capacity).

Specific Restrictions

Because Members are accountable to their constituents and not the administration, the recommended Policy focuses on providing increased transparency to provide that accountability rather than providing a list of what is and is not a permissible expense. That being said, the draft Policy does recommend a few specific restrictions (based on best practices) as follows:

- No expense shall create a conflict of interest, or the appearance of such a conflict, that may arise through the purchase of goods or services from a family member;
- Alcohol is not a permitted expense;
- Personal expenses (i.e. clothing, etc.) are not eligible expenses; and
- Gifts for Members' staff or other employees of the City, its agencies, boards, commissions and special purpose bodies are not eligible expenses.

The proposed Policy also recommends some specific restrictions in the area of donations and contributions. These restrictions are based on direct advice from the Integrity Commissioner with respect to best practices and to be consistent with Sections V and VI of the proposed Code of Conduct relating to the use of improper influence and the use of municipal resources.

The main purpose of the Constituency Services Budget is to allow Councillors to perform their duties as elected officials. It is a common practice for Members to give donations from their Constituency Services Budgets to individuals and community groups for a variety of purposes and reasons. These contributions are equivalent to grants made by Councillors to support municipal and community objectives.

While such small contributions are part of community building and are important to many community groups, there is not a uniform opinion among ethics experts with respect to whether these types of donations are appropriate. On the positive side, the contributions can be interpreted as going to good community "participants" or on the negative side, it can be seen as influence peddling.

The proposed Policy recommends that Members be able to continue to provide contributions, but that such expenditures should continue to represent a small annual percentage of the Constituency Services Budget. An annual maximum threshold of 3.5% of the operating budget is proposed, which is approximately the median amount spent by Councillors in the years 2011 and 2012.

As contributions to individuals will no longer be permitted, donations will be limited to community groups or organizations. Further, they must be based on a specific request for a community activity. As indicated earlier, contributions will only be made by City of Ottawa cheque to a group or organization and supported by a documented written request.

Another practice, usually occurring at year-end, is the transfer of funds from the Constituency Services Budgets to various City-funded services and departments. While the practice is not inherently wrong, as the monies available in a Member's budget have already been approved and voted by Council to be spent as the Member deems appropriate, it is a basic public accounting principle that money voted by a public authority for a specific purpose should not be redirected to another purpose without the granting authority's prior approval.

The practice can also lend itself to negative perceptions. On the one hand, Council has set annual budgetary limits for City services and departments and this practice indirectly increases certain budgets outside of direct Council control. It can also be perceived as influence peddling with the City administration or lead to a perception from certain City services or departments that they might be able to curry favour with the elected representative for more resources.

Therefore, the proposed Policy includes the following restrictions on contributions, unless otherwise approved by motion of Council:

- Contributions are limited to 3.5% of the Member's annual Constituency Services Budget;
- Contributions shall be made via City of Ottawa cheques to a community group or organization, not by Members or Members' staff personal cheques;
- Contributions to individuals, businesses or City-funded services and departments are prohibited; and
- The purchase of material assets as contributions is prohibited.

It is recommended that the effective date of the Council Expense Policy be July 1, 2013.

Community, Fundraising and Special Event Policy

In developing the proposed Code of Conduct, Gifts Registry and Council Expense Policy, it became apparent to staff that processes and policies governing councillor events and members' benevolent (charitable) activities should also be established to incorporate the principles and guidelines enshrined in the Accountability Framework as a whole, including the Lobbyist Registry. Members of Council host a variety of ward-specific, community events and also participate in and sometimes lead broader fundraising events for charities or other non-profit or community-based associations.

Over the years, staff has developed informal protocols for these events but are of the opinion that, given experiences in other municipalities and the adoption of a Lobbyist Registry, a formal policy clarifying the rules for community, fundraising and special events is needed.

As with the Council Expense Policy, the experience of other jurisdictions provided staff with some important insight into the kind of parameters that should serve to help ensure Members' activities related to community, fundraising and special events are consistent with the rest of the elements of the Accountability Framework.

Council Member-Organized Community Events

For many, if not most, Members of Council, the organization and promotion of community events is an important part of their role as a civic leader and elected representative for their constituents. In many cases, these events are part of a long standing tradition in their communities and are often centered on community building, a celebration of community history or support for a local charity. They take the form of community barbeques or picnics, winter carnivals, seniors' teas, or events associated with celebrations such as Canada Day or Christmas.

The proposed Community, Fundraising and Special Events Policy sets out some parameters for the hosting of these events (called 'benevolent activities' for the purpose of the Policy), particularly where donations are received from outside sources. The proposed Policy codifies current practices such that Members of Council will be expected to:

- Open a City account with the Manager, Council Support Services;
- Account for all funds, goods and services donated, including a list of all individuals and organizations who donated;
- Account for all expenses and distributions undertaken for that activity; and

- Not use any funds, goods or services received for the benevolent activity for any other purpose.

The proposed Community, Fundraising and Special Events Policy sets out a few additional parameters related to Council Member-Organized Community Events as follows:

- In the case of repeat annual events, Members will be permitted to carry over a reasonable operational amount to a subsequent year. At the end of a Member's term, any remaining funds will either be contributed to the appropriate charity /organization or transferred to the Council Administration Budget in the same manner as a surplus of a Member's Constituency Services Budget;
- Members will not be permitted to solicit or accept donations from a lobbyist or their clients or employees of the client with active registrations in the Lobbyist Registry without pre-approval from the Integrity Commissioner; and
- Members will be expected to report on these activities, on an annual basis, as part of Public Disclosure.

The Community, Fundraising and Special Events Policy also includes certain restrictions for events held in an election year. As has been the past practice in an election year, a Member of Council must not seek donations and sponsorships for any event that has not been staged in the previous two years (i.e. has a very similar, if not the same, event name/title; takes place at approximately the same time; and has the same general purpose). In addition, Members of Council shall not accept donations or stage any event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Ottawa.

Benevolent Activities and Events

Members of Council are often called upon to assist and support various charities, service clubs, and other non-profit and community-based associations. Their role and level of participation can vary and can include:

- Accepting honorary roles in organizations;
- Lending their names to organization and events to assist in fundraising; and
- Encouraging community and corporate donations to registered charitable, not-for-profit, or other community-based groups.

For some Members of Council, participating in and sometimes leading these events is an important part of their role as a representative of their community. The proposed

Community, Fundraising and Special Events Policy is intended to balance the role Members of Council have as civic leaders with the need to both provide transparency regarding their involvement and to carry out their community service in a manner that promotes public confidence, taking into account lessons learned from other jurisdictions.

The recommended Policy provides that Members of Council shall not use the influence of their office for any other purpose than the exercise of their official duties and for municipal purposes. In doing so, Members of Council will be expected to consider certain parameters when choosing to support a third party organizing a fundraising or benevolent event:

- Members should ensure that neither they nor their staff is directly involved in the solicitation of any funds nor that they receive any funds that are solicited by the organization;
- Members of Council shall consult with and obtain a written opinion of approval from the Integrity Commissioner when considering whether to support a third party by organizing a fundraiser or benevolent event to ensure that the Member does not have a conflict between his/her private interest and public duty; and
- Members should also ensure that:
 - All donations are payable directly to the organization and all in-kind donations go directly to the organization;
 - Their commitment and support does not require significant staff time and/or City resources;
 - They do not participate directly in decisions on the disbursement of funds or in the determination of the beneficiaries of the funds and remain at arm's length from the financial aspects of these external events without pre-approval from the Integrity Commissioner; and
 - If more than \$25,000 in funds net of expenses is raised, the organization will be requested to publicly disclose audited statements, which should include a list of receipts, expenses, donors and disbursements to beneficiaries.

It is recommended that the effective date of the Community, Fundraising and Special Events Policy be July 1, 2013, in order to provide time for Members to consult with the Integrity Commissioner to obtain prior approval where required.

BACKGROUND

Members of Council are each provided with a Constituency Services Budget with which to operate their respective offices. The Constituency Services Budget provides

Members with resources required to support their role, enabling them to communicate with constituents about the meetings and activities of City Council and City Hall; assist with and lead activities that enhance the communities in their wards; represent the City at functions and events; and administer their offices to serve their constituents and support their legislative role.

Currently, the management of the Constituency Services Budget is guided by the Council Office Manual as well as the *Election-Related Resources Policy*, which includes specific restrictions related to a Member's budget in relation to election-related matters.

Last updated by the Member Services Sub-Committee in November 2005, the Council Office Manual is out of date. While many of the basic elements of the Office Manual are still relevant, the Manual is limited in terms of providing specific guidance to Members in the areas of allowable expenses and appropriate documentation for reimbursements, as it has not been amended to accommodate the number of practices that have been put in place over the years.

Finally, the Council Office Manual also does not incorporate the more recent enhancements Council has made in the realm of public disclosure.

As part of the 2010-2014 Governance Review, City Council endorsed an Accountability Framework that includes a Code of Conduct for Members of Council, an Integrity Commissioner, public disclosure of office expenses, and a low-cost lobbyist registry and gifts registry.

Members of Council have been disclosing their expenses monthly since January 2011 and have approved specific guidelines for disclosure, including the level of detail that must be provided for certain expenses. City Council established the Lobbyist Registry and created the office of the Integrity Commissioner on July 11, 2012.

The Integrity Commissioner was tasked with creating a Code of Conduct for Members of Council, and providing input into any related policies, including the Expense Policy and Gifts Registry. Following Council adoption of these policies, the Integrity Commissioner will oversee their implementation, providing advice to Members of Council, issuing interpretations and, where necessary, investigating complaints and recommending sanctions. The Integrity Commissioner also acts as the City's Lobbyist Registrar and Meetings Investigator.

On August 29, 2012, the City Clerk and Solicitor announced the appointment of Mr. Robert Marleau as the City's Integrity Commissioner. Mr. Marleau has 32 years of parliamentary experience, including 13 years spent as the Clerk of the House of Commons. He has also served as the interim Privacy Commissioner of Canada and as the Information Commissioner of Canada.

The Integrity Commissioner and City staff have worked together to develop recommendations on the remaining pieces of the Accountability Framework, namely the Code of Conduct, the Gifts Registry and the Expense Policy, for Council's consideration. As part of this work, it was determined that a Community, Fundraising and Special Events Policy would further enhance the Framework.

Although the Code of Conduct for Members of Council and Gifts Registry are within the jurisdiction of the Integrity Commissioner, and the Council Expense Policy and the Community, Fundraising and Special Events Policy will be administered by the City Clerk and Solicitor and the Deputy City Clerk, all of the recommendations have been developed jointly, to be consistent with one another and with the other elements of the Framework.

As is the case for the companion Code of Conduct for Members of Council and Gifts Registry report, the generic term 'staff' in this report is used for convenience and brevity only, as the Integrity Commissioner is an independent, arms-length statutory officer and not staff of the City.

Expense Policy

The Code of Conduct report notes that municipal experts agree it is better to put an ethics regime in place before a problem comes to light, as it is then a reflection of the broader values and culture of the organization and not as a response to specific ethical breaches. In that respect, the City of Ottawa has the advantage over a number of other municipalities that have preceded it (Toronto, Mississauga, Brampton and Vaughan for example).

A brief overview of the experiences of other jurisdictions is presented below to help illustrate both the need for a clear policy and an understanding of some of the provisions recommended by staff.

Experience in Other Ontario Municipalities

Toronto

In an era of cutting back at City Hall, councillor expenses may no longer provide the kind of water-cooler fodder reminiscent of the bunny suit years. But we'll always have popcorn machines. And astronomical cellphone bills — for now, at least.¹

National Post, April 30, 2011

¹ Alcoba, Natalie, "Councillor expenses not as exciting as yesteryear", *National Post*, 30 April 2011.

The City of Toronto had the first major overhaul of its Councillor Expense Policy in June 2008. The policy adopted in 2008 replaced 21 policies and reports previously approved by Council. As noted by City Clerk Ulli Watkiss in the June 2008 report, “Since amalgamation, there have been a large number of reports related to expenses for Councillors. Some of these reports amend a portion of a previous Council-approved policy, while other reports proposed new policies or exceptions. Over time, it has become very confusing to identify clearly what Council has approved and to decipher Council’s original intent behind these decisions.”²

A number of recommended changes were brought forward by Toronto’s Integrity Commissioner in response to items referred to that Office at various Council meetings in 2006, 2007 and 2008. These changes included attendance at conferences and donations to Members’ community events.

The resulting Expense Policy approved by Toronto City Council is very detailed (over 50 pages in length). It identifies broad categories of spending, which are further broken down into specific eligible and ineligible expenses (including conditions for some expenses). The policy also identifies principles and procedures including the use of personal funds. It includes the full public disclosure of all Members’ office expenses on a quarterly basis. Members are required to publicly disclose any personal funds they spend related to their roles as well.

In 2012, Toronto City Council adopted a number of changes to the Council Expense Policy. The changes included making Councillor donations to community groups an ineligible expense, requiring Councillors who are not Board or Committee Members of the FCM to fund the cost of attending the Annual Conference from their respective Office Budgets and stipulating that the provision of BlackBerry smartphones and mobile tablets (as well as associated voice and data plans) is standard equipment to be provided to Members and funded from the Council General Expense Budget.

They also approved changes to what is considered a personal expense. Newly ineligible expenses include:

- Events where the primary purpose is a farewell, or a celebration of the Councillor’s term or year or to celebrate a personal milestone occasion;
- Conferences, seminars and business travel for Councillors who have announced that they are not returning to Council, or those who are not returning to Council after a municipal election;

² City of Toronto. *Councillor Expense Policy: Staff Report*, prepared by U. Watkiss. [Toronto, Ont.]: June 2008, p. 3.

- Event tickets for Councillors' spouses; and
- Fine art purchase or rental for the Councillor's office.

A number of Ontario municipalities have modeled their expense policies for Members of Council on Toronto's approach. Staff believes it is important for individual municipalities to develop ethics policies that, while based on best practices, reflect the values of that particular municipality. In addition, it is important to note that some of the provisions reflected in the City of Toronto's Expense Policy are the result of the widely reported political divisions within that Council rather than what might be considered general best practices. To illustrate, the requirement of Members to disclose office expenditures that are paid by a Member personally seems to have been put in place specifically to address issues Council has had with Rob Ford.

In 2007, Toronto City Council requested the Auditor General and the Integrity Commissioner investigate the "lack of expenses charged to the Councillor's Office Budgets of Councillors Holyday and Ford as it relates to the Code of Conduct and the acceptance of gifts, benefits as well as goods and services paid through personal funds." The resulting joint report by Auditor General Jeff Griffiths and Integrity Commissioner David Mullan (released on November 8, 2007) found that Councillor Ford had contravened the existing Council Expense Policy by paying for expenses personally and not reporting them to the City Clerk. Councillor Holyday had not paid for expenses personally (except for minimal mileage costs which he had also not disclosed).

The Auditor General and the Integrity Commissioner noted that "Council, in setting its policies on Councillors office expenses particularly the policy restricting the use of personal funds to pay for such expenses, was mindful of the following: a desire to ensure that details of all expenses incurred by Members of Council are transparent and available as a matter of public record; and a desire to ensure that all Members of Council have access to the same amount of public funds in order to ensure that those Members of Council who could afford to do so were not funding their office over and above the approved budget allocation."³

The report stated that "one of the concerns related to the payment of office expenditures from personal funds along with the non-disclosure of these amounts is the potential that certain Members of Council who have the financial means to do so are in a position to incur expenses in excess of amounts available to other Councillors." The report further

³ City of Toronto. *Report on Councillors Office Expenses – Councillor Ford and Councillor Holyday*, prepared by Jeff Griffiths, Auditor General, and David Mullan, Integrity Commissioner. [Toronto, Ont.]: November 8, 2007, p. 4.

suggested that Council may wish to consider amending its expense policy and looking at public disclosure of expenses incurred by Members of Council.⁴

This change was adopted, but staff views this as a reflection of the unique circumstances of one municipality rather than a best practice.

Vaughan

When Vaughan councillors banded together six months ago to demand Mayor Linda Jackson's resignation, one of the things they pointed to was her lavish spending on meals and wine on the taxpayer's tab. But receipts unearthed under a freedom of information request by resident Gino Ruffolo show those councillors weren't averse to breaking bread and drinking wine with her at taxpayer expense, months before the storm broke with the release of a controversial audit.

On Jan. 28, 2008, Jackson invited councillors to dine at Ciao Bella Ristorante, a popular local eatery. The final tab that Jackson expensed, including tax and tip, was \$1,222 for dinner for Jackson and all eight councillors. It included six bottles of wine – four of Chianti Ruffino for \$300, two of Amarone Capitel for \$172, plus a Manhattan and another glass of wine. The meal, eaten by Alan Shefman, Sandra Yeung Racco, Gino Rosati, Joyce Frustaglio, Mario Ferri, Bernie DiVona, Tony Carella, Peter Meffe and Jackson, included nine deluxe platters, five tilapia dishes, a New York strip loin, one lamb dish, two risotto Portofino and gnocchi.⁵

Toronto Star, May 27, 2009

In 2008, in response to accusations that Mayor Linda Jackson was misspending public funds, Vaughan City Council ordered an audit of the Mayor's 2007 expenses. Accounting firm Ernst & Young conducted the audit and released the report of their findings on December 3, 2008 and a supplemental report on May 14, 2009. The supplemental audit found that the Mayor had made inappropriate use of public funds, and uncovered a number of violations of City policy and issues with accounting practices. The findings in the original audit included:

- \$13,995.69 in charges to the Mayor's corporate credit card were not supported by sufficient documentation (i.e. receipts) or explanation;

⁴ Ibid, p. 7.

⁵ Gombu, Phinjo and Gail Swainson, "Vaughan mayor's critics joined her at the trough", *The Toronto Star*, 27 May 2009.

- The Mayor charged \$5,816.37 in personal expenses to the corporate credit card and the time it took her to repay those charges ranged from 13 to 322 days;
- The Mayor charged a \$481.60 flight to Calgary for a Federation of Canadian Municipalities conference for her spouse to the City and the spouse did not use the flight. A credit for the flight was issued in the name of the Mayor's spouse and, at the time the report was issued, neither the Mayor or the Mayor's spouse had reimbursed the City for the charge;
- The Mayor's office purchased \$1,896.77 in printing services from a company owned and operated by a relative of a member of the Mayor's staff (although the Mayor was not made aware of the relationship at the time of the purchase);
- The Mayor received a personal reimbursement for a \$346.94 expenditure that had already been reimbursed directly to American Express. The Mayor reimbursed those funds.⁶

The supplemental report identified where the activities listed above violated City policies and made recommendations to strengthen both the policies and the controls over and enforcement of those policies.

In response, Vaughan City Council approved a new Council Member Expense Policy in March 2010. Similar to Toronto's approach, the new Policy was very detailed, establishing precise limits for many expenditures and addressing most of the recommendations contained in the supplemental audit. The City Auditor was tasked with reviewing expense submissions and ensuring compliance with the Council Member Expense Policy. In October 2011, the City Auditor reported back to Council recommending a number of refinements for further clarity. Amendments included making advertising for non-City charitable and/or fundraising events an ineligible expense, making data charges for mobile devices for Members' an ineligible expense, and allowing alcohol for council-approved hospitality situations as a business expense when it had previously been ineligible.

When approving the amendments to the policy, Council also approved the establishment of a Council Member Expense Policy Taskforce, consisting of two Regional Councillors and two City Councillors and supported by the City Clerk, the City Auditor, the Commissioner of Finance/City Treasurer, the Commissioner of Legal & Administrative Services & City Solicitor, and Assistant City Clerk, to review the policy

⁶ City of Vaughan. *Report on the Mayor's City-Related Expenses for 2007*, prepared by Ernst & Young. [Vaughan, Ont.]: December 3, 2008, p. 1-2.

and provide a Findings Report in January 2012. Ottawa staff has been advised that this Task Force on Vaughan's expense policy has not produced any findings to date.

Richmond Hill

Ward 2 Councillor Carmine Perrelli used his expense account to purchase a set of TaylorMade golf clubs, a putter, golf shoes and a golf bag, totalling \$1,181.29, a Liberal investigation has revealed.... The purchase was verified by The [Richmond Hill] Liberal following a Freedom of Information Act request of Mr. Perrelli's corporate expenses, which was released last week....

Mr. Perrelli said he's not a golfer, but an unforeseen aspect of winning the election last fall is he's often invited to appear in a municipal capacity at golf tournaments — some for charity. Rather than repeatedly pay club rental fees, Mr. Perrelli said he received the blessing of Richmond Hill Mayor Dave Barrow to purchase some golf equipment. "Go to Golf Town," is what Mr. Perrelli said he was instructed to do by Mr. Barrow. "I figure I'm saving taxpayer money by avoiding rental fees. If I'm not re-elected three years from now, then the town keeps the clubs. If I'm re-elected, which is more likely to happen, I keep using the clubs" ...

Mr. Perrelli is one of two first-term Richmond Hill councillors, the other being Ward 3 Councillor Castro Liu. Mr. Liu was asked if he had expensed new golf clubs through his constituency account, as had Mr. Perrelli.

"What!? Well, it's his opinion what he spends it on. I use my expenses for lunches and Starbucks," said Mr. Liu, adding he has yet to play a single round of golf as a town councillor.⁷

Richmond Hill Liberal, October 19, 2011

In April, 2012, Richmond Hill Town Council adopted an Expense Policy, following a review that was launched in response to a controversy following a Councillor's claim of \$1,200 in expenses for new golf clubs, shoes and a bag. At the time, the Councillor in question justified the purchase as a savings to the Town as he no longer needed to rent golf clubs and expense them to the Town for numerous charity golf tournaments he is invited to. The Richmond Hill Town Council approved an expense policy in April 2012 to

⁷ Richmond Hill Liberal. "Councillors expenses golf clubs: Purchase made to save town money, politician alleges", *Yorkregion.com*, 19 October 2011.

guide Members' expenditures in the performance of their duties and representation of their constituents. The policy, similar to Toronto, establishes eligible and ineligible expenses and outlines specific conditions for various types of expenses. The Town produces quarterly expense reports for each Member of Council.

Audit of the House of Commons Administration (June 2012)

Coincidentally, proper financial management and sufficient supporting documentation were part of two audits recently conducted by the federal Auditor General. On June 13, 2012, Mr. Michael Ferguson released two audits (one to the Board of Internal Economy of the House of Commons and the other to the Standing Committee on Internal Economy, Budgets and Administration) regarding the management policies and control systems in the areas of strategic and operational planning, financial management, human resource management, information technology systems, and security.⁸ Overall, the audits found that the Administration of both entities had high rates of compliance in the following areas related to the processing of expense claims:

- Authorized: timely approval by individual with financial signing authority;
- Supported: the amount of the expenditure evidenced by receipts or invoices;
- Reviewed: by the Administration before payment;
- Recorded: properly coded and entered into the financial system;
- For intended purposes: related to parliamentary function and in accordance with the rules.

Despite the high rates of compliance, both audits suggested that there was room for improvement, especially with respect to sufficient supporting documentation. The audit of the House Administration specifically points out that, "[a]ll expense claims should have adequate supporting documentation. Lack of documentation or information leads to uncertainty about whether the by-laws, policies, and directives of the Board of Internal Economy have been followed."⁹

⁸Canada. Office of the Auditor General of Canada. *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons: Administration of the House of Commons of Canada*. Ottawa: Auditor General of Canada, June 2012.

Canada. Office of the Auditor General of Canada. *Report of the Auditor General of Canada to the Standing Senate Committee on Internal Economy, Budgets and Administration: Administration of the Senate of Canada*. Ottawa: Auditor General of Canada, June 2012.

⁹Canada. Office of the Auditor General of Canada. *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons: Administration of the House of Commons of Canada*. Ottawa: Auditor General of Canada, June 2012.

City of Ottawa

As indicated earlier, the Council Office Manual has not kept up with the changes in policies and practices that have been put in place since 2005. However, the need to amend the Office Manual was not recognized until the 2010 election, when nearly half of the Members of Council were new. While preparing for the orientation sessions for new Members, it became clear that Ottawa, like Toronto prior to 2008, had too many documents that had bits and pieces of improvements and amendments to the Office Manual and a consolidation was overdue.

Moreover, events in Toronto, Mississauga, Vaughan, Brampton, Winnipeg and others were helping to establish new best practices in the areas of ethics policies for elected officials.

When, as part of the 2010-2014 Governance Review, City Council directed staff to proceed with work towards establishing an Accountability Framework for Council that would include a Code of Conduct for Members of Council, an Integrity Commissioner, public disclosure of office expenses, a Lobbyist Registry and Gifts Registry, staff understood that an update to the Council Office Manual should be postponed until such time as the Accountability Framework was in place.

The recommended Council Expense Policy codifies the most current practices already in place at the City, as well as best practices from other jurisdictions that are reflective of and consistent with the other elements of the Accountability Framework. It does not, however, incorporate all of the elements of the Council Office Manual. Following the adoption of the remaining elements of the Framework, staff will begin updating the Council Office Manual with the intent of bringing it forward for Member Services Sub-Committee's consideration.

Community, Fundraising and Special Events Policy

In many Wards, there has been a long tradition of community events run by Members. In these Wards and others, Members believe that organizing or promoting community events is part of their responsibilities. They help build a sense of community particularly in ethnically diverse Wards. They fulfill a valuable service role in less affluent neighbourhoods and especially those in which there are social problems. ... Because of this, Member-run community events should be both accepted and encouraged.

One way of doing this is to permit Members to solicit and accept donations in both money and kind for community events. However, this practice does raise ethical concerns. The larger and the more numerous

the events, the greater is the drain on Members' time from their other responsibilities. Members should not be in the business of providing entertainment to their constituents particularly as part of a strategy to ensure re-election. As well, solicitation of donations for community events brings with it the danger that those solicited will see a contribution as necessary for securing the good will of the Member. Conversely, donors will perceive the making of a donation as securing influence with the Member. These dangers are particularly acute when the donor is seeking to do business with or obtain some other advantage from the City. Accordingly, any policy allowing Members to solicit and accept donations for community events must strike a balance between accommodating a valuable social function and the potential dangers to Members' integrity...¹⁰

David Mullan, Toronto Integrity Commissioner

Members of Council host a variety of ward-specific, community events and also participate in and sometimes lead broader fundraising events for charities or other non-profit or community-based associations.

Over the years, staff have developed informal protocols for these events but are of the opinion that, given experiences in other municipalities and the adoption of a Lobbyist Registry, Council would be best served by adopting a formal policy clarifying the rules for community, fundraising and special events.

As with the Council Expense Policy, the experience of other jurisdictions provided staff with some important insight into the kind of parameters that should serve to help ensure that Members' activities related to community, fundraising and special events are consistent with the rest of the elements of the Accountability Framework.

A brief overview of the experience of some other jurisdictions is presented below to help illustrate the rationale for some of the provisions recommended by staff.

Experience in Other Ontario Municipalities

Mississauga

"It was designed as a night for the corporate and artistic elite to toast Mississauga's revered Mayor Hazel McCallion, with the dual purpose of raising funds for local arts and culture initiatives. But in this, the 25th year of the Mississauga Mayor's Gala, the annual event is under a cloud

¹⁰ City of Toronto. *Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol*, prepared by David Mullan, Integrity Commissioner. [Toronto, Ont.]: June 16, 2008, p. 14.

of suspicion as rebel councillors delve deeper into its finances. Since Councillor Sue McFadden first suggested last November that about 80% of gala proceeds were unduly being used to fund “a big party for Hazel,” countless questions, reports and council disputes have followed.”¹¹

National Post, March 25, 2011

“The City of Mississauga erroneously issued tax receipts for the mayor’s annual gala for about a decade, a new report coming before council Wednesday reveals... Because the stated purpose of the gala fundraising changed in 1997, Ms. Baker’s report notes, a review of the city’s practice of issuing tax receipts should have been conducted at that time.

“We do not know whether a review was done, however the practice of issuing receipts continued,” the report states. It continued, in fact, until 2006, when staff ultimately did review the city’s donation policies... The city ceased issuing charitable receipts for the mayor’s annual gala in 2006, Ms. Baker’s report indicates, noting receipts issued to individual ticket purchasers between 1997 and 2006 ‘would not have been fully compliant with CRA guidelines.’”¹²

National Post, March 22, 2011

The Mississauga Mayor’s Gala was first held in 1987. According to the Mayor’s Gala website, “the event was originally created by a public affairs employee of the city to help dispel negative views by some residents of Mississauga’s new Civic Centre. Her objective was to show those unhappy with the design that the striking new structure was very functional and in fact, designed with the public use in mind. The idea worked and the event was a smashing success.

The first two galas were held in a large tent on the public square while guests enjoyed dancing in the Great Hall of the award-winning complex. The Mayor insisted that the event must not cost the taxpayers a single dime and the organizing committee assured her that there would be a surplus of funds at the end of the evening. They were right, and the gala has gone on to raise millions of dollars for not only the early development

¹¹ O’Toole, Megan, “Mississauga Mayor’s Gala faces allegations of corruption”, *National Post*, 25 March 2011.

¹² O’Toole, Megan, “Mississauga erroneously offered tax receipts for Mayor’s gala: report”, *National Post*, 22 March 2011.

of the Living Arts Centre but also a variety of individuals and organizations engaged in arts, culture and heritage initiatives throughout the city.”¹³

The Mayor’s Gala was not a registered charity. Further, the City’s administration was heavily involved in the organization and administration of the Mayor’s Gala until 2008. There was an organizing committee that oversaw the event (including seeking out sponsors and donations, selling tickets and arranging entertainment) and consulted the Mayor on many of the details. Mississauga staff was involved in the administration of the Gala which included handling all proceeds and distribution of funds.

Responsibility for the Mayor’s Gala was transferred to the Community Foundation, which was a registered charity. In January of 2011, Councillor Sue McFadden asked 26 questions regarding the Mayor’s Gala, the results of which led to more questions from Councillors and revelations that the City administered and inappropriately issued tax receipts for approximately a decade for a Fund which was entirely and solely within the signing authority of the Mayor. In addition, it was disclosed that approximately 80% of the ticket proceeds went to the costs of the Gala and not the charities.

In November 2011, the Mayor announced that the Mayor’s Gala had served its purpose and was ended. The event has now become the Hazel McCallion Arts for Life Gala and is organized by the Living Arts Centre, with the proceeds for the event going to the Centre.

The issues around this event highlight what can happen without structure and accountability. In response to one of Councillor McFadden’s questions, namely that staff provide a copy of the by-law that enabled staff to assist with the Gala (putting resulting revenues into City accounts, soliciting sponsorships, selling tickets and issuing receipts), Commissioner of Corporate Services and Treasurer Brenda Breault stated that, “There is no City by-law. This was not a City controlled or organized event....There are no City by-laws or motions. The Gala was never undertaken as a City event and the net Gala proceeds were never under the control of the City but were being held on behalf of the Mayor.”¹⁴

This example raises the need to ensure that the involvement of City staff in charitable events organized by politicians only occur by way of Council motion or direction. Further, although Mississauga staff participated, there seemed to be no accountability for their involvement. Finally, staff suggest that municipalities may want to avoid being in the position of issuing charitable receipts for political events or where monies are

¹³ <http://www.themayorsgala.ca/history>

¹⁴ City of Mississauga. “*Responses to Mayor’s Gala Questions Dated January 19, 2011*”, Memorandum prepared by Brenda R. Breault, Commissioner of Corporate Services & Treasurer to Councillor Sue McFadden. [Mississauga, Ont.]: February 24, 2011, p. 3.

being disbursed by an elected official for a City purpose, even where the municipality might legally be able to issue a receipt.

Toronto

“In seeking and accepting donations in this way and from these donors he combined the roles of public office holder and private citizen. It would be understandable if those who made donations concluded that they were “doing the Councillor a favour” by making a donation to his foundation. In some cases, donations were made within several months before or after lobbying activity took place with Councillor Ford. One donor received a second request after making a donation. These facts create a reasonable impression of a link between the making of the donation and the performance of Councillor Ford’s duties. As such, these donations were benefits to Councillor Ford indirectly linked to his performance of his duties in office.”¹⁵

Janet Leiper, Toronto Integrity Commissioner, August 2010

“It is apparent that the respondent was and remains focused on the nature of his football foundation and the good work that it does...The Integrity Commissioner’s report, itself, details a confrontational relationship with the respondent and a stubborn reluctance on the respondent’s part to accept that his activities concerning his football foundation are properly subject to the Code of Conduct. ...On my review of the record in this proceeding, the respondent has never acknowledged a key point addressed in the Integrity Commissioner’s report; that is, that it was not appropriate for the respondent to use his status as Councillor (or Mayor) for private fundraising, notwithstanding that the purpose was to benefit a good cause.”¹⁶

The Honourable Justice Charles Hackland, Magder v. Ford

The City of Toronto’s Code of Conduct prohibits Members of Council from receiving gifts, donations or benefits from registered lobbyists or their clients or employers.

In the spring of 2010, then-Councillor Rob Ford solicited donations for his private football foundation (on Councillor Ford letterhead, with the City logo and embossed gold

¹⁵ City of Toronto. *Report on Violation of Code of Conduct by Councillor Rob Ford*, prepared by J. Leiper, Integrity Commissioner. [Toronto, Ont.]: August 2010, p. 11.

¹⁶ *Magder v. Ford*, CV-12-448487 Ontario Superior Court of Justice, Nov. 26, 2012; pp 56-57.

seal) from lobbyists, clients of lobbyists and a corporation which does business with the City of Toronto.

The Integrity Commissioner investigated and reported on these activities following the receipt of a formal complaint filed in May 2010 after a resident received a fundraising letter from Councillor Ford. The complainant had not had any prior communications with the Councillor, did not reside in his ward, and did not know how the Councillor had obtained his home address. The complainant indicated to the Integrity Commissioner that he became aware of Mr. Ford's candidacy for Mayor and that "[t]his left me uncomfortable. While it was not stated in words, there was a clear sense of an implied suggestion that a donation to his charity might serve me well should he be elected Mayor."¹⁷

Councillor Ford had received prior advice on the use of the City logo and his Councillor letterhead to pursue private fundraising. Specifically, the Integrity Commissioner noted two informal complaints (December 2009 and February 2010) where she had provided the advice that the Councillor was required to separate his Councillor work from his private fundraising work. Specifically, she advised him that by "asking citizens for money for a personal cause on Councillor letterhead, there is a risk that you could be seen to be using your influence as a Councillor to raise money for your private foundation."¹⁸ Following the second informal complaint, the Integrity Commissioner believed that Councillor Ford had accepted this advice, though reluctantly.

Over the course of her investigation, the Integrity Commissioner offered the Councillor opportunities to take corrective action. However the Councillor "appeared to genuinely find it difficult to understand how others could feel uncomfortable with his letters or how the fact of lobbyists donating to his personal cause, at his request and with this knowledge of the donations, could compromise the Councillor-lobbyist relationship."¹⁹

The Integrity Commissioner found that Councillor Ford had violated three sections of the Code of Conduct (Gifts and Benefits, Use of City Property, Services and Other Resources, and Improper Use of Influence) and recommended that he be required to repay the donations received from the lobbyists and the corporation engaged in business with the City in the amount of \$3,150 as sanction. Toronto City Council approved the sanction in August 2010.

¹⁷ City of Toronto. *Report on Violation of Code of Conduct by Councillor Rob Ford*, prepared by J. Leiper, Integrity Commissioner. [Toronto, Ont.]: August 2010, p. 2.

¹⁸ City of Toronto. *Report on Violation of Code of Conduct by Councillor Rob Ford*, prepared by J. Leiper, Integrity Commissioner. [Toronto, Ont.]: August 2010, p. 2.

¹⁹ *Ibid*, p. 14.

Over the course of the next two years, the Integrity Commissioner made several attempts to follow up on whether now-Mayor Ford had complied with Council's sanction. In January 2012, the Integrity Commissioner issued a supplementary report to Council wherein she reported that, after numerous attempts to follow-up, the Mayor had written to her and advised that he had corresponded with the donors, three of whom had confirmed that they did not wish to receive reimbursement of their donations. Ms. Leiper informed the Mayor that despite the responses he received, he was still expected to abide by the sanction imposed by Council.

“The integrity of City Council depends on elected officials to respect its decisions. Toronto City Council has established an ethics regime which includes a Code of Conduct that recognizes the public deserves “the highest standards of conduct from the members it elects to local government.” (Preamble, Code of Conduct). If elected officials do not follow Council's decisions this could weaken public trust in the integrity of local government and set a poor example for others.”²⁰

When the Integrity Commissioner's report came to Council in February 2012, Mayor Ford was present at the meeting, spoke to the matter and voted on a motion to rescind Council's decision of August 2010. As a result, an application was brought against Mayor Ford to seek a determination of whether Mayor Ford had contravened the *Municipal Conflict of Interest Act* (MCIA) by speaking or voting on the motion before Council in February 2012. The *Magder v. Ford* case and its appeal are summarized in the Code of Conduct for Members of Council and Gifts Registry report (ACS2013-CMR-CCB-0028).

Brampton

“For five years, Brampton Mayor Susan Fennell has raised hundreds of thousands of dollars from the community for a fund in her name that isn't registered as a charity, doesn't issue receipts and has never opened its books to the public... At least two Brampton city councillors have expressed concern that they cannot find out exactly how much has been raised and where the money has gone. One donor stopped giving this year because of what he called a lack of transparency.”²¹

Toronto Star, October 12, 2010

²⁰ City of Toronto. *Report on Compliance with Council Decision CC 52.1*, prepared by J. Leiper, Integrity Commissioner. [Toronto, Ont.]: January 30, 2012, p.4.

²¹ Grewal, San, “Brampton mayor's private ‘community fund’ not registered”, *The Toronto Star*, 12 October 2010.

“It has been pointed out that there are questions about whether city staff and resources are being used to run this private fund and the mayor’s annual private fundraising golf tournament.

“As soon as she uses the title ‘mayor’ for her events and her private fundraising, the taxpayers have the right for transparency... (Taxpayers) have the right to know if city resources are being used and where exactly all this money that’s being raised is going,” Moore said.”²²

Toronto Star, November 12, 2012

Brampton Mayor Susan Fennell lends her name to two private fundraising events: the “Stepping Out for the Arts and the Community Gala” and the “Mayor’s Annual Golf Classic”. The Gala is an upscale black-tie dinner and is colloquially referred to as ‘The Mayor’s Gala’. During the Gala, an honouree is presented with a Lifetime Achievement Award. The honouree is selected by the organizing committee and is someone who is a strong supporter of the reputation, social, economic or cultural life of Brampton and its residents.²³ The Mayor’s Annual Golf Classic is an annual golf tournament hosted by a community group. The first \$100,000 in profits from the event is given to the William Osier Health Centre. If the net proceeds exceed \$100,000, a volunteer committee determines additional worthy community recipients.²⁴

Up until the spring of 2011, the Mayor Susan Fennell Community Fund, which was a private fund with a seven-member board that included the Mayor, was responsible for running the annual arts gala. Profits from the Mayor’s Gala were ultimately allocated to the Mayor’s Community Fund to be used for charitable, not-for-profit and other community-based purposes as selected by the Board. From 2005 until 2011, the Gala raised over \$200,000 per year.²⁵ According to its website, Stepping Out for Brampton Inc. was established in March 2011 as the successor to the following unincorporated entities: Mayor Susan Fennell’s Gala, Mayor Susan Fennell’s Golf Classic, Mayor Susan Fennell’s Community Fund and Mayor Susan Fennell’s Community Spirit Team.²⁶

²² Grewal, San, “Brampton mayor resigns from her own private fund”, *The Toronto Star*, 12 November 2010.

²³ City of Brampton. *Advice to Mayor Susan Fennell, at her request about the Mayor’s Gala and Golf Tournament*, prepared by the Honourable D. Cameron, Integrity Commissioner. [Brampton, Ont.]: October 20, 2011, p 4-5.

²⁴ City of Brampton. *Advice to Mayor Susan Fennell, at her request about the Mayor’s Gala and Golf Tournament*, prepared by the Honourable D. Cameron, Integrity Commissioner. [Brampton, Ont.]: October 20, 2011, p. 7.

²⁵ Ibid, p. 4-5.

²⁶ <http://www.stepsoutingforbrampton.com/>

In 2010, a Member of Council began to raise questions about the Gala's finances and the involvement of city staff. In October 2010, the *Toronto Star* reported on an investigation into the Mayor's Community Fund. In particular, the *Star* reported that the fund was not registered as a charity, did not issue receipts and had never opened its books to the public.²⁷ The investigation also touched on allegations Brampton staff resources were being used for the annual arts gala (in particular a member of Mayor Fennell's staff was identified on registration documents as being a contact). The Mayor acknowledged that city staff were involved in fundraising, but they volunteered their time.

Mayor Fennell denied any allegations that the Fund had anything to hide. While the Fund's Board had initially refused to disclose its financial documents, citing one of the main issues hindering disclosure of the fund's books was the privacy of donors and recipients, the Mayor said she would appeal to the Board to go public with its financial statements.

As a result of this issue, the need for the appointment of an integrity commissioner for Brampton was raised during the 2010 municipal election.

As one of her first orders of business, the re-elected Mayor Fennell issued a report entitled "Mayor's Plan for Accountable Government" at Brampton Council's first official meeting of the 2010-2014 Term of Council in December 2010. The Plan had two key recommendations: an updated Code of Conduct for Members of Council and the appointment of an Integrity Commissioner whose primary role would be to ensure that Brampton elected officials were held to the highest standards of accountability.²⁸

As well, Mayor Fennell reconfirmed the Fund's Board would open its books to the public. When the Board met, the Mayor resigned her position as Chair of the Board stating she felt attempts to smear her reputation would damage the Gala and its future.²⁹ Three months after Mayor Fennell had promised the Fund would open its books, the Board released financial information consisting of brief statements for 2008 and 2009, without much detail.

In February 2011, Brampton City Council appointed ADR Chambers (an alternative dispute resolution firm composed of retired judges, experienced lawyers and other dispute resolution professionals) as its Integrity Commissioner. At the request of the

²⁷ Grewal, San, "Brampton mayor's private 'community fund' not registered", *The Toronto Star*, 12 October 2010.

²⁸ City of Brampton. *Mayor's Plan for Accountable Government*, prepared by S. Fennell, Mayor of the City of Brampton. [Brampton, Ont.]: December 2010, p. 4-5.

²⁹ Grewal, San. "Brampton mayor resigns from her own private fund", *The Toronto Star*, 12 November 2010.

Mayor, the Honourable Donald Cameron conducted an investigation to determine whether the fact the Mayor supports and lends her title to the Mayor's Gala and the Mayor's annual golf tournament was a violation of Brampton's Code of Conduct or any other municipal legislation.

In October 2011, the Honourable D. Cameron submitted his report on the Mayor's Gala and Golf Tournament. In his report, the Integrity Commissioner found that it was not a contravention of the Code for the Mayor to participate in and lend her name to her private fundraising events. He also found that it was not a contravention of the Code for the Mayor to be consulted on the honouree for the Gala and the recipients of the profits to be disbursed.

The Integrity Commissioner also concluded that there was no evidence that any of the revenues or profits from the Gala or the Golf Tournament go to the Mayor personally or to any of her family members. She has no financial interest in the Company. The evidence is that her reason for participating in and lending her name to the Gala is the satisfaction of knowing the Gala is successful and to maximize the funds that can be given to worthy charities and other worthy community organizations.

While the Integrity Commissioner found the Mayor's participation was not in contravention of the Code, he did encourage continued, pro-active public disclosure of financial statements for such events:

The Mayor should recommend that the Company continue to publish annual audited financial statements, on a timely basis, relating to revenues received from and profits distributed in relation to the Mayor's Gala and the Golf Tournament showing inter alia:

- a) revenues raised by the event;***
- b) the expenses;***
- c) the disbursement of profits of each from these events; and***
- d) any accumulated undisbursed profit.***

In this manner, the Mayor and Council can then convey to the public, in a transparent and accountable manner, their involvement in performing their community service in a way that promotes public confidence and compliance with applicable rules and policies respecting the use of corporate resources.

I must note that the Mayor cannot force publication of the audit. That is a matter for the Company. She can only request it. The Chairperson of the

Company has advised me, however, that the Board intends to continue to publish its audited statements. If, in the future, the Company refuses to publish audited statements, the Mayor should consider whether it would continue to be appropriate to lend her name to these events.³⁰

Brampton City Council received the Integrity Commissioner's report, and one comment in the minutes of that meeting was of particular note. Regional Councillor Miles stated that, "any Member of Council is vulnerable to reputational harm by unfounded allegations, noting that while the Mayor was under scrutiny, the City suffered the effects."³¹

City of Ottawa

The City of Ottawa already has established practices in the area of Councillor events that receive significant sponsorships. The guiding principles of the current practices include ensuring that funds or in-kind donations for a special event are only used for that event, and never to subsidize the Constituency Services Budget, and that any surpluses remain in an identified account for that event.

Since 2009, the Clerk's Office has established special event cost centres for the following events: Councillor BBQ (Ward 11, 2009-2010); Kanata North Picnic (Ward 4); New Year's Eve (Ward 8); Corn Roast (Ward 18); Breakfast with Santa (Ward 18) and Earth Day (Ward 22). The need for these specialized cost centres became apparent when the sponsorship amounts were deemed to be high and the managing of the office budget became difficult as a result of trying to separate the special event from day to day business.

The current rules are as follows:

- All expenses and transactions for the individual events are to be handled through these accounts;
- Any funds related to these specific events are not allowed to go through the Councillor's Constituency Services Budget;

³⁰ City of Brampton. *Advice to Mayor Susan Fennell, at her request about the Mayor's Gala and Golf Tournament*, prepared by the Honourable D. Cameron, Integrity Commissioner. [Brampton, Ont.]: October 20, 2011, p. 10.

³¹ City of Brampton. *City Council Meeting Minutes: Correspondence from The Honourable Donald R. Cameron, Q.C., ADR Chambers, Integrity Commissioner for the City of Brampton, re: Advice to Mayor Susan Fennell, at her request about the Mayor's Gala and Golf Tournament*. 26 October 2011.

- The specialized cost centres operate much like the operating budget in terms of managing the finances (i.e. approvals, receipts and other accounting requirements); and
- Where necessary, sponsorship letters are prepared by the office but are provided to the Deputy City Clerk to sign off and approve on behalf of the City.

There are currently no practices in place for fundraising and other benevolent activities that are sponsored by a Member but undertaken on behalf of or organized by a third party.

DISCUSSION

Council Expense Policy

“Recent years have seen increasing demands for political and government representatives to be held accountable for their use of public funds. Being transparent by providing meaningful information supports this accountability. The demands have been voiced by the media following reports that public funds had been misused in various ways.

Members of Parliament hold positions of trust and have considerable responsibilities to fulfill on behalf of their constituents and Canadians in general. With responsibility comes accountability. Members are individually accountable to their constituents for their actions.”³²

Auditor General of Canada, June 2012

“I think a lot of municipalities out there who haven’t adopted expense policies or whose policies are lagging, it’s because they are concerned — erroneously — that transparency means airing your dirty laundry. But those jurisdictions who have taken the leap . . . have found that it protects them from criticism.”³³

Suzanne Craig, Integrity Commissioner for Vaughan and several other municipalities

Each Member of Council is provided with a Constituency Services Budget intended to assist the Member in fulfilling their duties and running their office. The Constituency

³² Canada. Office of the Auditor General of Canada. *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons: Administration of the House of Commons of Canada*. Ottawa: Auditor General of Canada, June 2012, p. 9.

³³ Javed, Noor, “Council expenses: Cities open a window on politician spending”, *The Toronto Star*, 1 June 2012.

Services Budget provides Members of Council (Members) with resources to run their offices at City Hall and in their wards (where applicable) to support their role as a Member. This includes conducting meetings and communicating with constituents and other stakeholders; supporting and promoting activities or community groups within their ward and in the community at large; and representing the City at functions, events or conferences.

The proposed Council Expense Policy provides guidance to Members of Council on expenditures that support the Member in fulfilling his or her statutory duties as an elected official. The recommendations are an extension and codification of current procedures and practices pertaining to the manner in which Members of Council exercise their respective budgets. They provide what staff believe are necessary updates to what is currently outlined in the Council Office Manual, clearly outline the roles and responsibilities of Members of Council, the City Clerk's Office and the Integrity Commissioner and specify the necessary accounting and audit procedures for proper financial management.

The proposed Policy further recognizes that Members are accountable to the public and their constituents, not to the City administration. Further, each Member represents a specific constituency and each constituency has different needs. Finally, the roles of the Mayor and Ward Councillors are also distinct.

The proposed Policy is based on five principles that are to be applied when interpreting the policy:

1. *Autonomy of Council* – City Council is an autonomous body under the *Municipal Act, 2001*, and is separate and distinct from the City administration;
2. *Integrity of Council* – The integrity of City Council as a whole and the offices of the Members must be protected and the interest of City Council as a whole takes precedence over the personal interest of individual Members of Council;
3. *Accountability* – Members are the stewards of City resources and are ultimately accountable to their constituents for the type and level of expense they incur. Therefore, public funds should be spent exclusively for the fulfillment of public duties. Expenditures should be reasonable, business-related and reflect what the public expects of an elected official;
4. *Transparency* – The public has a right to know how public funds allocated to Members are spent; and the public's right to Members' expense information must be balanced against the need to protect privacy and personal information and allow time for proper accounting and reconciliation of expenses; and

5. *Flexibility and Limits* – While Members require flexibility to perform their roles and engage their communities differently, it is important that sound accounting, audit and tax principles/rules and legislation and policies are followed.

Staff also recognizes that no policy adequately covers all situations. Therefore, it is recommended that it be possible for Members to be granted an exemption to the Council Expense Policy in writing by the City Clerk and Solicitor and/or the Deputy City Clerk, in consultation with the Integrity Commissioner, as necessary.

Budget Allocation and Administration

The Budget Allocation and Administration section of the proposed Council Expense Policy outlines basic spending guidelines for Members, as well as the accounting procedures that must be followed.

For the most part, Members will be familiar with these provisions as they reflect current practices – personal expenses are prohibited, assets are the property of the office and not the individual, proper invoicing and receipting are mandatory requirements for reimbursement, etc. That being said, this section of the report highlights a number of specific elements either to demonstrate issues that have occurred in other jurisdictions, to respond to frequently asked questions from current Members and their staff or to highlight a recommended change in practice.

Purchase of goods or services from a family member

“Mayor Rob Ford has outsourced the printing of business cards for himself and his staff to his family’s printing company, billing taxpayers up to four times as much per card as councillors who have them printed by the city.”³⁴

Toronto Star, October 28, 2011

“Mayor Sam Katz is defending his decision to hold a taxpayer-funded Christmas luncheon at a restaurant he owns. In December, the mayor's office spent \$2,915 on a gathering for city councillors, department heads and their families at Hu's Asian Bistro on Ellice Avenue, according to expense records obtained by the Free Press under freedom-of-information

³⁴ Moloney, Paul, and David Rider. "Ford outsources business cards to his family's firm." *The Toronto Star*, 28 October, 2011.

*legislation.*³⁵

Winnipeg Free Press, February 23, 2011

Staff is recommending the Council Expense Policy include a provision whereby, “No expense shall create a conflict of interest, or the appearance of such a conflict, that may arise through the purchase of goods or services from their own family member or a family member of one of their staff.” Members should read this section with the Improper Use of Influence Provisions of the *Code of Conduct* in mind. While the provision does speak specifically to family members, Members should also consider how this provision applies to any individual they have a personal relationship with and, if there are any questions, seek guidance from the Integrity Commissioner.

Providing Appropriate Documentation

“All expense claims should have adequate supporting documentation. Lack of documentation or information leads to uncertainty about whether the by-laws, policies, and directives of the Board of Internal Economy have been followed. In our opinion, it also exposes the Administration and Members to a greater risk of error with respect to compliance with the Board’s rules.”³⁶

Auditor General of Canada, June 2012

“We recommend that the Governance Committee of Council instruct the City Clerk’s Department to strengthen its reimbursement practices to allow reimbursements only when adequate documentation has been made regarding the purpose of business meetings and ward activities... We observed that it was common practice for Councillors to only submit PCard [note: Purchasing Card] receipts for meal expenditures without submitting the detailed restaurant receipts. PCard receipts do not detail the amount of GST paid on the receipt, nor do they contain the vendor’s GST registration number. Therefore, the documentation that is being submitted may not qualify as sufficient information to entitle the City to the GST rebate associated with the expenditure.”³⁷

City Auditor for Winnipeg, June 2011

³⁵ Knives, Bartley, and Jen Skerritt. "Katz defends luncheon at restaurant he owns." *Winnipeg Free Press*, 23 February, 2011.

³⁶ Canada. Office of the Auditor General of Canada. *Report of the Auditor General of Canada to the Board of Internal Economy of the House of Commons: Administration of the House of Commons of Canada*. Ottawa: Auditor General of Canada, June 2012, p.13.

³⁷ City of Winnipeg. *Councillors’ Representation Allowance Fund: Report to Governance Committee of Council*, prepared by B. Whiteside, City Auditor. [Winnipeg, Man.]: June 22, 2011 Council meeting; p.9.

The issue of elected officials being reimbursed without proper documentation has been a common finding in other jurisdictions. The provision in the proposed Expense Policy, as follows, reflects the current practice:

Members and their staff must provide proper documentation, including detailed original receipts and a breakdown of taxes, for all expense claims. Credit card receipts or statements alone are not sufficient and will not be accepted. In the case of any on-line purchases, a copy of the confirmation must be attached to the claim. Members or their authorized staff must sign off on all receipts or invoices with original signatures. Documentation with only signature stamps or electronic signatures will not be accepted.

This provision is important to ensure proper accounting for the use of public funds, but also to ensure that the City receives the rebate for sales tax to which it is entitled.

The City of Ottawa's municipal status allows for a rebate on the HST, GST or PST component of most purchased goods and services, including hospitality expenses, reimbursed to employees. This typically includes 100% of the Goods and Services Tax (5% GST) and 78% of the Provincial Sales Tax (8% PST). In order for the City to claim an eligible rebate, the tax component and amount must be itemized on the back-up provided and include the supplier's Revenue Canada Taxation (RCT) number. The RCT number is only found on the detailed invoice or receipt issued by the vendor; it is not found on the receipt received at point of sale (i.e. a cancelled cheque or the receipt generated when either a credit or debit card is used). The City of Ottawa cannot claim eligible rebates if the detailed supplier invoice or receipt is not provided.

Providing personal benefit to individuals or businesses

Constituency Services Budgets were not intended to be used by Members to provide a tax-supported personal benefit to individual citizens or for-profit businesses. While the Clerk's Office has discouraged these expenditures, there has been no rule against them. Staff is recommending the inclusion of a prohibition on these budgets being used to provide a personal benefit to specific individual citizens or businesses (i.e. payment of tax penalties, parking tickets, sponsorship of personal travel, etc.).

Donations to charities

“Winnipeg's councillors who use taxpayers' money to make charitable donations have been reminded to get the receipts made out to the City of Winnipeg -- not themselves. In an annual audit of spending by councillors,

city auditors found only six of the 19 people who served as councillors last year submitted proper documentation for charitable donations.”³⁸

Winnipeg Free Press, June 14, 2011

One of the most common questions from Members’ offices is what to do with the charitable tax receipts that are sent to the offices when a donation has been made from an office. The practice has been to give the receipts to the Managers of Council and Mayor Support Services. A review of other jurisdictions showed that Winnipeg and Toronto require receipts from charities be made out to the municipality. The recommended provision incorporates both elements as follows:

All donations to charities funded by the Constituency Services budget (including charitable events and dinners) shall be accomplished by means of a cheque or purchasing card payment and any charitable receipt shall be made out to the City of Ottawa. Charitable receipts shall be given to the Manager, Council Support Services or the Manager, Mayor Support Services. Neither Members nor their staff will be reimbursed for charitable donations provided in cash unless accompanied by the charitable receipt.

Communications and Advertising Outside of Ward

In previous terms of council, Members periodically objected to the use of Constituency Services Budgets to communicate in another Member’s ward. On occasion, these communications occurred when a ward boundary change was about to be implemented, prior to the *Election-Related Resources Policy* ‘blackout period’. At the time, there was no rule to prevent this occurrence. As the next Ward Boundary Review is scheduled for 2015, staff is therefore recommending the following provision:

Communications and advertising expenses for a geographic area outside of a Member’s ward will not be permitted without prior approval from the City Clerk and Solicitor or the Deputy City Clerk, in consultation with the Integrity Commissioner. Notwithstanding, it is recognized that community newspaper circulation and some unaddressed postal walks will cross ward boundaries, and these are exempt where outside the Member’s control.

Corporate Card

“Vaughan mayor now challenged on credit-card meals, purchases”

Toronto Star, April 15, 2008

³⁸ Knives, Bartley, “Councillors lack donation receipts”, *Winnipeg Free Press*, 14 June 2011.

“Maghnieh charged massages for girlfriend to library”

CBC News, Windsor, April 25, 2012

The City of Ottawa already has guidelines that govern the use of both Corporate and Purchasing Cards. These Council-approved guidelines were put in place to address the issues identified in the 2001-2002 Audit of the Corporate Card and Purchasing Card Program, first presented in February 2003. Following the guidelines for Corporate and Purchasing Cards is mandatory for all who have them. The intent of the Corporate and Purchasing Cards is to reduce processing costs and provide for easier reconciliations for Elected Officials and their staff, as well as Clerk's and Finance staff. Purchasing cards do not allow travel and hospitality expenses, while Corporate Cards do.

Under the supervision of the Deputy City Clerk and the Managers of Mayor and Council Support Services, Corporate Cards have been available to Members of Council since 2009. Members of Council who accept a Corporate Card are required to meet with the Deputy City Clerk to review the *Purchasing Card Procedures* and the *Corporate Card Policy*. In addition, Members must sign a Purchasing Card Program Cardholder Agreement, verifying their understanding and compliance with the policies and procedures pertaining to use of the corporate and/or purchasing card.

Elected Officials who receive a Corporate / Purchasing Card are required to:

- Provide acceptable receipts that itemize the purchased good or service, unit price, total cost, vendor and tax information. A credit card slip that indicates only the value of the purchase is not an acceptable receipt. Every effort must be made to obtain a copy of an original receipt where a receipt has either been lost or misplaced;
- Ensure purchases are made in accordance with the City of Ottawa's *Purchasing By-law*;
- Reimburse the City of Ottawa for inappropriate purchases or fees;
- Submit all receipts associated with corporate/purchasing cards by the 15th of each month to Clerk's staff. Within three (3) business days, each Office will receive a reconciled statement for signature and approval. Offices are then required to submit the signed and approved statement back within three (3) business days;
- With the support of the Managers of Mayor and Council Support Services, provide approved statements to the Financial Services Unit for review within five (5) working days of the cycle end date;

- There is a zero tolerance approach to late reconciled statements. In the absence of a reconciled statement or an expected submission deadline, cardholder privileges are suspended until the statement reconciliation is received; and
- Non-compliance with the *Corporate Card Policy and Purchasing Card Procedures* may result in the cancellation of the corporate/purchasing card with reinstatement approved only by the Deputy City Clerk.

The recommended provision in the Council Expense Policy complements, but does not supersede, the requirements laid out in the *Purchasing Card Procedures* and the *Corporate Card Policy*.

Accountability

The proposed Council Expense Policy also incorporates the current guidelines with respect to Members' personal liability with respect to any budget overages. Specifically, Members of Council cannot exceed their annual Constituency Services Budget. Any over-expenditure is the personal responsibility of the Member, to be paid personally by the Member and there is no carry-over of deficits or surpluses from one year to the next.

Public Disclosure

“My office regularly encourages transparency and openness when it comes to the expenditure of taxpayer dollars. Consequently, there is a good reason for such information as travel, hospitality and other expenses of municipal councilors, to be publicly accessible.”³⁹

Dr. Ann Cavoukian, Information and Privacy Commissioner of Ontario

On February 28, 2013, Information and Privacy Commissioner (“IPC”) of Ontario, Ann Cavoukian, wrote to the Ministers of Government Services and Municipal Affairs and Housing to request the Government study possible amendments to the *Municipal Freedom of Information and Protection of Privacy Act, 1990*. In particular, the IPC has asked that this legislation be expanded to include certain records of municipal councillors in Ontario, namely travel, hospitality and other expenses.

Staff believe the City of Ottawa is “ahead of the curve” on this matter, as both Ottawa City Council and all staff on the City’s Executive Committee already disclose their individual office expenses. The current practice of public disclosure was approved by

³⁹ Cavoukian, Ann. *Letter to the Honourable Harinder S. Takhar and the Honourable Linda Jeffrey*. Information and Privacy Commissioner of Ontario. 28 Feb 2013.

Council on December 8, 2010 as part of the 2010-2014 Governance Report and office expenses with specific details regarding expenses related to hospitality, donations and sponsorships, special events and travel have been listed since January 1, 2011.

In December 2011, City Council approved that, “any hospitality expense filed as part of the current process involving meals must include the names of the individuals involved, the name and location of establishment, as well as date, price and purpose.” They further specified Members not be required to list the names of attendees for community events of a social, protocol or ceremonial nature or events involving large groups of a social nature (over 10 people), school events or similar events where no City business is transacted or the names of any minors receiving hospitality.

As part of the Mid-term Governance Review in February 2013, City Council directed staff to develop a Routine and Pro-active Disclosure Policy by the end of Q2, 2013 to make it easier for staff to provide information that is public in a more efficient manner. Routine Disclosure is the routine or automatic release of certain types of administrative and operational records in response to requests made informally, or under MFIPPA. Pro-active Disclosure is the periodic release of general records prior to, or in the absence of, a formal or informal request. Pro-active Disclosure, also referred to as “Active Dissemination,” is usually applied to general records or statistics.

In keeping with that direction and following on Council’s commitment to accountability and transparency, Council also approved annual proactive disclosure of events hosted by the Office of Protocol as well as gifts presented on behalf of the City through Protocol as part of the Mid-term Governance Report.

The Office of Protocol manages the coordination and delivery of events and receptions that are hosted by the Mayor, or the Mayor’s designate, on behalf of the City of Ottawa.

It also maintains an inventory of unique and appropriate gift items that are available for presentation by the Mayor (or designate) and/or City officials on behalf of the City of Ottawa to visiting dignitaries and official visitors to the City. Gift items are also provided as donations, on behalf of the City of Ottawa, to support local fundraising efforts by non-profit community groups. The annual disclosure for Protocol will be listed on the Public Disclosure section of Ottawa.ca and will list events, including the type/name of event, the total budget for the event and the sponsorships received for the event, and gifts, including the type of gift, the reason for the presentation of the gift, the name of the recipient and the total value of the gift.

The Information and Privacy Commissioner

When the issue of the public disclosure of names of individuals receiving hospitality from Members was first discussed, there was some discussion around privacy concerns related to the disclosure of personal information.

Members were informed that successive Offices of Information and Privacy Commissioners (IPC) in Ontario have found that most details of expense claims by government officials and employees that are reimbursed by public funds should be made public in response to access to information requests made under the *Municipal Freedom of Information and Protection Act* (MFIPPA) or its provincial-level counterpart, the *Freedom of Information and Protection of Privacy Act* (FIPPA).

A consistent approach has developed in the IPC's review and adjudication of these types of requests whereby all or most of the details of the expenses are revealed and only information that is of a truly personal nature (such as credit card information) is exempted from disclosure, as opposed to information that is related to someone's business or official capacity. This approach applies as well to information concerning third-parties who, in their professional, business or official capacities, were entertained by a government official using public funds. Information that is of a truly personal, non-business and non-official nature, even where such information is related to an expense claim, can be protected.

The Information and Privacy Commissioner, as indicated above, has addressed matters with respect to elected officials over the years. In decisions dating back to 1996, the IPC has concluded that individual members of municipal council (except for the Mayor) are not officers or employees of the municipality. Consequently, unless records are found to be in the "custody or control" of the municipality (such as receipts and other financial records) a ward councillor's records are not subject to MFIPPA.

Most recently, this issue received public attention with a series of three IPC decisions on access requests for information in the custody of Toronto City Councillors. In all three orders, the IPC Adjudicator upheld the City of Toronto's decision that the requested records were not within the custody or control of the City, and thus, not subject to the MFIPPA.

However, and as indicated in the opening part of this section, Information and Privacy Commissioner Dr. Ann Cavoukian wrote to the Ministers of Government Services and Municipal Affairs and Housing to request that the Government study possible amendments to the *Municipal Freedom of Information and Protection of Privacy Act, 1990*. In particular, the IPC has asked that this legislation be expanded to include certain records of municipal councillors in Ontario, namely travel, hospitality and other expenses.

While the proposed Councillor Expense Policy provides increased transparency in the types of Members' expenses Dr. Cavoukian asked the Province for in her February 28, 2013 letter, staff are unclear if those are the only Members' records she is suggesting be subject to MFIPPA. Staff will continue to monitor this issue and report back to Council on any related developments.

Transparency vs. Rules

There is a wide spectrum of rules for Members in the areas of hospitality, donations, and event tickets in the expense policies for elected officials that staff reviewed. Some allow for Members' spouses and/or their political staff to attend events expensed to the office budget, some did not. Some require forms be submitted and reviewed describing the business purpose for hospitality, donations, events, etc., some require Council approval for all hospitality and/or for all travel, and some simply prohibit hospitality and travel.

The Public Disclosure requirements in the proposed Council Expense Policy are based on the notion of increased transparency in these areas as opposed to establishing rules, in keeping with the foundation principles of the proposed Code of Conduct.

City Council already has a number of practices in place with respect to business travel for Members of Council and if that business travel is funded by the Member, it is already captured in the current public disclosure model. Other business travel is based on several Committee and Council approvals: municipal association conferences and committees are approved by the Finance and Economic Development Committee on an annual basis, Transit Commission and Planning Committee-related travel for the Chairs or designates has been approved for the term by those respective bodies and Members have access to one training session per year from a municipal association (up to a maximum of \$1,000).

At the January 17, 2011 meeting of the Finance and Economic Development Committee, the following motion from Councillor Wilkinson was approved, which was in keeping with past practices:

That Councillors attending a conference present a report on what they gained from attendance at that conference and how they advanced the City's position or interests at any public forum.

In complying with this direction, Councillors have reported back in various ways. As Commission Chair, Councillor Deans provides a verbal update following a conference she has attended. Councillor Qadri provided a report – at the request of the Committee – to the October 13, 2009 Planning and Environment Committee on his experience attending a Waste to Energy tour in Sweden. Councillor Hume also provides a verbal

update following each conference he attends and also provides written reports to Planning Committee as required (most recently regarding the American Planning Association Conference at the October 23, 2012 Planning Committee meeting).

The proposal to provide public disclosure on all business-related travel Members undertake on behalf of the City is consistent with disclosing travel expended by Members' budgets.

The key change for Members will be the additions to the categories of public disclosure. However, it should be noted that these revisions do not require any significant changes to the current practices. Members already provide all of the information below except for the original request from organizations with respect to contributions and sponsorships. Staff believes that the increased disclosure meets the intent of what the Information and Privacy Commissioner is requesting, at least in part, with respect to possible changes to the *Municipal Freedom of Information and Protection of Privacy Act*.

The proposed changes to public disclosure requirements are as follows:

Conditions and Requirements for Public Disclosure

• **Contributions and Sponsorship**

- Contributions must be accompanied by a request from the organization with details about the group and the purpose of the contribution.

• **Hospitality offered by Members**

- Identify business purpose and date for the meeting expense;
- Original itemized receipt indicating items consumed and total cost;
- The name and location of establishment; and,
- Full name of all participants attending meeting must be provided, as well as their affiliation if they are representing an organization or business. The names of individuals receiving hospitality are not confidential.

• **Special Events attended by Members**

- Exact name of event must be provided;
- Date and location of the event;
- The name of any individual who attended with the Member must be provided;

- Detailed receipts and invoices of any expenses incurred; and
- A copy of tickets purchased.
- **Travel**
 - Identify where the meeting was held, the duration, and the purpose;
 - Travel reimbursement must include any itinerary confirming travel dates and airline booking, an original hotel invoice itemizing room costs and other incidentals, conference brochure confirming the cost and conference date and taxi / parking receipts; and
 - Members must report to the Integrity Commissioner, before the first date of travel, all travel costs funded by an eligible body under the Code of Conduct (i.e. provincial, regional and local governments or political subdivisions of them, by the federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is speaking in an official capacity).

Specific Restrictions

The proposed Council Expense Policy does provide for some specific restrictions on a minority of spending. These restrictions are based on direct advice from the Integrity Commissioner with respect to best practices.

The proposed changes to the contributions that Members can make out of their Constituency Services Budgets for community activities, events and organizations are being made to be consistent with Sections V and VI of the proposed Code of Conduct relating to the use of improper influence and the use of municipal resources.

The main purpose of the Constituency Services Budget is to allow Councillors to perform their duties as elected officials. While such small contributions are part of community building and are important to many community groups, such expenditures should continue to represent small annual expenditures of the Constituency Services Budget. An annual threshold maximum of 3.5% of the operating budget is proposed, which represents approximately the median amount spent by Councillors in the years 2011 and 2012.

As well, to date some donations from Members budgets have been made directly to individuals and community groups for a variety of purposes and reasons. Such contributions, usually relatively small amounts, are equivalent to grants made by Councillors to support municipal and community objectives. This practice of making payments to individuals, however, can lead to many interpretations as to the motive of

the contribution. On the positive side it can be interpreted as going to good community “participants” or on the negative side it can be seen as influence peddling.

Consequently, it is recommended that contributions payable to individuals will no longer be permitted and will be limited to community groups or organizations and pursuant to a specific request for a community activity. As indicated earlier, contributions will only be made by City of Ottawa cheque to a group or organization and supported by a documented written request.

Another practice, usually occurring at year-end, is the transfer of funds from the Constituency Services Budgets to various City-funded services and departments. While the practice is not inherently wrong as the monies available in a Member’s budget have already been approved and voted by Council to be spent as the Member deems appropriate, it is a basic public accounting principle that money voted by a public authority for a specific purpose ought not be redirected to another purpose without the granting authority’s prior approval.

The practice also lends itself to negative interpretations. On the one hand, Council has set annual budgetary limits for City services and departments and this practice indirectly increases certain budgets otherwise subject to Council control. It can also be perceived as influence peddling with the City administration or lead to a perception from certain City services or departments that they can curry favour with the elected representative for more resources.

Therefore, the recommended provisions below limit annual contributions to 3.5% of the overall Constituency Services Budget and provide that Members seeking to transfer Constituency Services Budget monies to a City-funded service or department should do so only with the approval of Council (by way of motion or a Councillor’s report), as follows:

- Unless otherwise approved by motion of Council, contributions are limited to 3.5% of the Member’s annual Constituency Services Budget;
- Contributions shall be made via City of Ottawa cheques to a community group or organization, not by Councillor or staff personal cheques;
- Unless otherwise approved by motion of Council, contributions to individuals, businesses or City funded services and departments are prohibited; and
- The purchase of material assets as contributions is prohibited.

With respect to the identification of ineligible expenses, staff is recommending very few parameters, in keeping with the principles that Members are accountable to their

constituents and that increased transparency provides accountability. The restrictions proposed are those that staff consider best practices. The issue of the purchase of goods or services from a family member is described earlier in this report; the remaining recommendations are self-explanatory and reflective of the advice currently provided to Members by the Clerk's Office.

- No expense shall create a conflict of interest, or the appearance of such a conflict, that may arise through the purchase of goods or services from a family member;
- Alcohol is not a permitted expense;
- Personal expenses (i.e. clothing, etc.) are not eligible expenses; and
- Gifts for Members' staff or other employees of the City, its agencies, boards, commissions and special purpose bodies are not eligible expenses.

Interpretation and Exemptions

The Deputy City Clerk and Councillors may consult with the Integrity Commissioner for guidance with respect to individual Councillor expenses or any interpretation on the application of this policy.

Where the Deputy City Clerk and the Integrity Commissioner have been consulted and a determination has been made that an expense is appropriate, an exemption may be granted.

Election Year Budget Restrictions

The *Election-Related Resources Policy* was established in February 2003 for the purposes of providing Members of Council and all City staff with direction on the use of corporate resources and the budgets of Members of Council with respect to election-related matters.

The City's *Election-Related Resources Policy* is intended to balance the ongoing duty of a Member of Council to represent his/her constituents with the legal obligation of a municipality not to contribute, or be perceived as contributing, to an election campaign and has become a benchmark for other Ontario municipalities.

The *Election-Related Resources Policy* was recently considered as part of the 2010-2014 Mid-term Governance Review such that the "blackout period" (the period within which corporate resources and Members' budgets are not to be used to sponsor any advertisements, flyers, newsletters or householders) was amended. Specifically, the "blackout period" was changed to coincide with the City's signs by-law for temporary

signs on private property, such that Members' City websites would be frozen and advertising be discontinued during the 60-day period prior to, and including, Voting Day. As well, all communications such as newsletters and householders must be delivered by the beginning of the "blackout period".

A summary of the provisions in the *Election-Related Resources Policy* related to Members' budgets include:

- Members' budgets are not to be used to sponsor or produce any campaign-related materials (i.e. materials that either promote or oppose the candidacy of a person for elected office);
- In a municipal election year or in the event of a by-election, Members' budgets are not to be used to sponsor any advertisements, flyers, newsletters or householders during the blackout period;
- Despite the blackout period, where an emergency occurs, a non-emergency related community issue arises or where an annual community event is held during the 60-day period prior to, and including, voting day, a Member of Council may use Corporate resources to advise or contact their ward constituents with the approval of the City Clerk and Solicitor;
- A Member of Council who is acclaimed, or who is retiring from office and therefore not a candidate in the election is not bound by the blackout period;
- In a municipal election year, a pro-rated portion (1/12) of the annual budget for each Members' office is to be reserved for the new term of Council; and
- In the event of a ward or city-wide by-election, or an appointment for a position of Council, funds from the vacated Member's office will be set aside on a pro-rated basis for the newly elected representative based on the start date of the new Member.

Code of Conduct for Members of Council

As identified in the accompanying report related to a Code of Conduct for Members of Council, the Expense Policy has been included within the framework of the Council Code of Conduct to provide the Integrity Commissioner with jurisdiction to address questions and concerns regarding the appropriate use of a Member's Constituency Services Budget. It is not expected that the Integrity Commissioner will deal with the administrative matters related to Member's budgets (these would continue to be dealt with by the City Clerk and Solicitor's Office); however, should a Member of Council or the City Clerk and Solicitor's Office have a question or concern regarding a particular

expense, the Integrity Commissioner would be available to provide advice. Staff recommend that where either the Member or City Clerk and Solicitor's Office alone pose a question to the Integrity Commissioner, the advice be shared with both parties to assist in developing a collection of best practice.

Effective Date

It is recommended that the effective date of the Council Expense Policy be July 1, 2013.

Community, Fundraising and Special Events Policy

"It was readily apparent that events such as the annual Ward barbecue or picnic are important days in the life of many Wards and that many Members of Council regard the staging of such events as a core part of their responsibilities as Ward Councillors. They promote community and provide important social and recreational outlets for constituents. In some instances, in fact, the impact of the event may extend well beyond the boundaries of the Ward and have a City-wide, national or even international profile. What is also clear is that the number of these events is growing and, in many cases, so is their size. Moreover, the reality is that many are becoming more and more dependent on donations (in both money and kind) and sponsorships. The costs cannot be realistically met out of the Member's office budget.

As a consequence, it is my recommendation that the time has come to recognize these realities. If the organizing and running of such events is a legitimate part of the role that Members of Council play in their Wards, not only should they be able to use their office budgets to support such events or to facilitate others running such events (as permitted at present) but also the policies that inhibit Members of Council from accepting donations (in cash or kind) and sponsorships should be revised. The current exceptions in Article IV permit Members of Council to accept hospitality at banquets, receptions and similar events. It seems perverse to allow that but not donations for events that benefit the Member's community."⁴⁰

Toronto Integrity Commissioner David Mullan, November 2007

In developing the proposed Code of Conduct, Gifts Registry and Council Expense Policy, it became apparent to staff that processes and policies governing councillor

⁴⁰ City of Toronto. *Donations to Councillor-Organized Community Events*, prepared by D. Mullan, Integrity Commissioner. [Toronto, Ont.]: November 2007, p. 3-4.

events and members' benevolent (charitable) activities should also be established to incorporate the principles and guidelines enshrined in the Accountability Framework as a whole, including the Lobbyist Registry.

As Toronto is the only other municipality in Ontario to have a mandatory Lobbyist Registry as well as the other accountability tools for Members of Council provided for in the *Municipal Act, 2001*, staff reviewed all of the work done by Toronto's Integrity Commissioners with respect to community events and benevolent activities within an Accountability Framework.

In June 2008, in response to a request from Council, then-Integrity Commissioner David Mullan identified the basic principles he believed Toronto City Council should adopt with respect to community events. The Integrity Commissioner and the Clerk's Office generally agree with the majority of the principles he set out, as follows:

More particularly, the development of an appropriate policy requires identification of the competing principles and the crafting of rules that strike an appropriate balance in the light of these competing principles.

Any policy and rules respecting community events and programs obviously requires some consensus on basic principles. In my view, those basic principles are as follows:

- 1. Community events and programs are important aspects of the life of many Wards across the City and Members play a valuable role in the organization (including the funding) of such events. The rules and policies on donations to community events and programs should recognize that and not put inappropriate impediments on Members' involvement.**
- 2. There is nothing necessarily wrong with Members seeking financial support from constituents and businesses to support these activities or with Members running these events (including their funding) through their offices or a third party subject in whole or in part to the Member's direction.**
- 3. Members will often benefit politically from the running of such events and programs, and where they depend in whole or in part on funding provided by constituents and businesses, the perception can develop that Members are engaging in these activities simply to enhance their profile in their Wards and soliciting financial support as part of an ongoing re-election campaign.**
- 4. Aside from enhancing the profile of Members in their Wards, external funding of such events can give rise to serious concerns about possible**

conflicts of interest and improper use of influence. Those seeking to do business with the City may believe that support for community events is part of the price of doing so. Perceptions can also easily develop that donations to community events buy influence with the Member.

5. Certain forms of financial support for community events and programs may violate Council policies such as situations where a Member secures support for a community event or program outside of the regular section 37 process as part of negotiations over planning permission, and from registered lobbyists or developers with pending applications.

6. In order to minimize the risks that attend the solicitation and acceptance of support for community events, any policy or rules should contain the following features:

(a) transparency irrespective of whether the event is being run directly by the Member or by a third party on the Member's behalf;

(b) a limit on the amount of money or value of in kind donations that a Member may solicit or accept in a calendar year;

(c) a prohibition on the solicitation and receipt of donations from those currently registered as lobbyists or seeking development permits;

(d) a total ban on solicitation of support for community events outside of and as a supplement to the negotiation of section 37 benefits under the *Planning Act*;

(e) a ban on solicitation for programs that are being or could be run by City programs, and which are subject to a different policy; and

(f) prohibiting otherwise permissible donations for community events and programs beyond a certain point in an election year.⁴¹

The proposed Community, Fundraising and Special Events Policy is based on current City of Ottawa practices, the rulings of the Integrity Commissioner in Toronto and lessons learned from Brampton, Mississauga and Toronto.

⁴¹ City of Toronto. *Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol*, prepared by David Mullan, Integrity Commissioner. [Toronto, Ont.]: June 16, 2008. p 13-15.

Council Member-Organized Community Events

For many, if not most, Members of Council, the organization and promotion of community events are an important part of their role as a civic leader and elected representative for their constituents. In many cases, these events are part of a long standing tradition in their communities and are often centered on community building, a celebration of community history or support for a local charity. They take the form of community barbecues or picnics, winter carnivals, seniors' teas, or events associated with celebrations such as Canada Day or Christmas.

The cost of these events varies. In some cases the event is hosted by the Member alone or in conjunction with a community organization. In order to host these community events, some Members seek and receive donations or sponsorships to organize events that benefit their ward, the city or a local charity. The proposed Community, Fundraising and Special Events Policy sets out some parameters for the hosting of these events, particularly where donations are received from outside sources.

First, the proposed Policy codifies the current practices set out earlier in this report. Members of Council will be expected to:

- Open a City account with the Manager, Council Support Services;
- Account for all funds, goods and services donated, including a list of all individuals and organizations who donated;
- Account for all expenses and distributions undertaken for that activity; and
- Not use any funds, goods or services received for the benevolent activity for any other purpose.

In the case of repeat annual events, Members will be permitted to carry over a reasonable operational amount to a subsequent year. At the end of a Member's term, should there be any funds remaining, the surplus will either be contributed to the appropriate charity / organization or the surplus will be transferred to the Council Administration Budget in the same manner as a surplus of a Member's Constituency Services Budget.

With respect to the solicitation of donations, the Community, Fundraising and Special Events Policy requires that Members do not solicit or accept donations from a lobbyist or their clients or employees of the client with active registrations in the Lobbyist Registry without pre-approval from the Integrity Commissioner. Staff is not recommending a limit with respect to dollar amounts for donations and sponsorships at this time. Staff is of the opinion that transparency provides sufficient accountability.

In line with the spirit of transparency and disclosure that Council has applied to its office expenses, Members will be expected to report on these activities as part of Public Disclosure. The reporting will be on an annual basis in recognition of the fact that preparation for a benevolent activity can take several months.

“Like all other forms of gifts and benefits, donations and sponsorships court the risk of becoming in both perception and reality payoffs for favours already rendered or being sought. Not only is there the danger that they can buy influence but, more insidiously, there can also be a perception that it would be folly not to respond to a Member’s request for assistance. Particularly, in an election year, there is also the problem of delineating where going about the business of the Ward ends and campaigning begins. Indeed, unless a clear line is drawn, Members run the risk of having their “community events” subjected to the time-consuming and costly scrutiny of a compliance audit under the Municipal Elections Act.”⁴²

David Mullan, Toronto Integrity Commissioner, July 2008

Similar to the restrictions outlined in relation to the Council Expense Policy, the Community, Fundraising and Special Events Policy includes certain restrictions for events held in an election year. In an election year, there can be a perception that a community event hosted by a Member of Council is in fact a form of campaigning.

As has been the past practice in an election year, a Member of Council must not seek donations and sponsorships for any event that has not been staged in the previous two years. An event is considered to have been staged in the previous two years if it meets the following criteria:

- has a very similar, if not the same, event name/title;
- takes place at approximately the same time; and
- has the same general purpose.

In addition, Members of Council shall not accept donations or stage any event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Ottawa.

⁴² City of Toronto. *Integrity Commissioner End of Term Report – 2008*, prepared by D. Mullan, Integrity Commissioner. [Toronto, Ont.]: July 2008, p. 5.

Benevolent Activities and Events

Members of Council are often called upon to assist and support various charities, service clubs, and other non-profit and community-based associations. Their role and level of participation can vary and can include:

- Accepting honorary roles in organizations;
- Lending their names to organization and events to assist in fundraising; and
- Encouraging community and corporate donations to registered charitable, not-for-profit, or other community-based groups.

For some Members of Council, participating in and sometimes leading these events is an important part of their role as a representative of their community. The Mayor is frequently asked to be the honorary Chair or host of local charitable events (e.g. the annual Mayor's Sweetheart Luncheon for the Arts) and several Members of Council organize or participate in the organization of annual events on behalf of a specific charity (e.g. the Jan Harder Charity Golf Classic, Councillor Deans' event on behalf of the Parkinson Society of Ottawa).

The proposed Community, Fundraising and Special Events Policy is intended to balance the role Members of Council have as civic leaders with the need to both provide transparency regarding their involvement and carry out their community service in a manner that promotes public confidence, taking into account lessons learned from other jurisdictions.

The recommended Policy provides that Members of Council shall not use the influence of their office for any other purpose than the exercise of their official duties and for municipal purposes. In doing so, Members of Council will be expected to consider certain parameters when choosing to support a third party organizing a fundraising or benevolent event.

First, Members should ensure that neither they nor their staff is directly involved in the solicitation of any funds nor that they receive any funds that are solicited by the organization. As has been demonstrated by various incidents in the City of Toronto, there can be a perception that soliciting donations and sponsorships from those who are lobbying the municipality is an opportunity for lobbyists to secure the favour of the Member. In her report on then-Councillor Ford's contravention of the City of Toronto's Code of Conduct for Members of Council, Integrity Commissioner Janet Leiper offered the following comments regarding how a genuine desire to support a good cause can be perceived:

In fairness to Councillor Ford, it is common for a person who has blurred their roles to have difficulty “seeing” the problem at the beginning. It often takes others to point out the problem, especially in a case where the goal (fundraising for football programs for youth) is laudable. The validity of the charitable cause is not the point. The more attractive the cause or charity, the greater the danger that other important questions will be overlooked, including who is being asked to donate, how are they being asked, who is doing the asking, and is it reasonable to conclude that a person being asked for money will take into account the position of the person asking for the donation. Where there is an element of personal advantage (in this case, the publication of the Councillor’s good works, even beyond what they had actually achieved), it is important not to let the fact that it is “all for a good cause” justify using improper methods for financing that cause. People who are in positions of power and influence must make sure their private fundraising does not rely on the metaphorical “muscle” of perceived or actual influence in obtaining donations.⁴³

It is recommended that Members of Council consult with and obtain a written opinion of approval from the Integrity Commissioner when considering whether to support a third party by organizing a fundraiser or benevolent event to ensure that the Member does not have a conflict between his/her private interest and public duty.

In addition to remaining at arm’s-length in regards to fundraising, Members should also ensure that:

- All donations are payable directly to the organization and all in-kind donations go directly to the organization;
- Their commitment and support does not require significant staff time and/or City resources;
- They do not participate directly in decisions on the disbursement of funds or in the determination of the beneficiaries of the funds and remain at arm’s length from the financial aspects of these external events without pre-approval from the Integrity Commissioner; and
- If more than \$25,000 in funds net of expenses is raised, the organization will be requested to publicly disclose audited statements, which should include a list of receipts, expenses, donors and disbursements to beneficiaries.

⁴³ City of Toronto. *Report on Violation of Code of Conduct by Councillor Rob Ford*, prepared by J. Leiper, Integrity Commissioner. [Toronto, Ont.]: August 2010, p. 13-14.

Effective Date

It is recommended that the effective date of the Community, Fundraising and Special Events Policy be July 1, 2013, in order to provide time for Members to consult with the Integrity Commissioner to obtain prior approval where required.

RURAL IMPLICATIONS

There are no rural implications associated with this report.

CONSULTATION

All Members of Council were consulted separately by the City Clerk and Solicitor and the Deputy City Clerk and by the Integrity Commissioner.

COMMENTS BY THE WARD COUNCILLOR(S)

This is a city-wide report.

LEGAL IMPLICATIONS

In accordance with Subsection 223.2(1) of the *Municipal Act, 2001*, municipalities have the statutory authority “to establish codes of conduct for members of the council of the municipality and of local boards of the municipality.” As such, there are no legal impediments to the Committee and Council considering this report.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications associated with this report.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

ACCESSIBILITY IMPACTS

There are no accessibility implications associated with this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

TECHNOLOGY IMPLICATIONS

There are no technological implications associated with this report.

TERM OF COUNCIL PRIORITIES

This report supports the Term of Council Priority related to Governance, Planning and Decision Making (GP1: Improve the public's confidence in and satisfaction with the way Council works).

SUPPORTING DOCUMENTATION

Document 1: Draft Council Expense Policy

Document 2: Draft Community, Fundraising and Special Events Policy

DISPOSITION

Upon Council approval, the City Clerk and Solicitor Department will work with the Integrity Commissioner to provide training on the requirements of the Council Expense Policy and the Community, Fundraising and Special Events Policy for Members of Council and their staff.

COUNCIL EXPENSE POLICY

1 Policy Overview

The Council Expense Policy provides guidance to Members of Council on expenditures that support the Member in fulfilling his or her statutory duties as an elected official. A Constituency Services Budget is intended to provide Members of Council (Members) with the resources to:

- Administer their offices at City Hall and in their wards to support their role;
- To conduct meetings and communicate with their constituents and other stakeholders;
- Support and promote activities or community groups within their ward and in the community at large; and
- Represent the City at functions, events or conferences.

The policy is intended to:

- Provide Members of Council with the flexibility to allocate resources in the most efficient way to meet their own particular requirements;
- Clarify the processes that Members and their staff use to administer their budgets by simplifying and outlining the rules; and
- Recognize Members' accountability for managing City resources allocated to them.

The following principles should be applied when interpreting this policy:

(a) Autonomy of Council

- City Council, as the decision-making body of the City, is separate and distinct from the City administration; and
- The autonomy of Council is provided for in the *Municipal Act, 2001*.

(b) Integrity of Council

- The integrity of City Council as a whole and the offices of the Members must be protected; and

- The interest of City Council as a whole takes precedence over the personal interest of individual Members of Council.

(c) Accountability

- Members are the stewards of City resources and are ultimately accountable to the public and their constituents for the type and level of expenses they incur;
- Since Members use public funds when they perform their duties, the public expects public funds to be used solely for fulfillment of their public duties;
- Members' expenses should be reasonable and reflect what the public expects of an elected official; and
- Members' business expenses and personal expenses must be kept separate.

(d) Transparency

- The public has a right to know how public funds allocated to Members are spent; and
- The public's right to Members' expense information must be balanced against the need to protect privacy and personal information, and allow time for proper accounting and reconciliation of expenses.

(e) Flexibility and Limits

- Members require flexibility to perform their roles, operate their offices and pursue their public interests;
- Members engage their communities differently;
- Expenditures must not conflict with rules set out in other related legislation and policies (e.g. *Election-Related Resources Policy*); and
- All accounting, audit and Income Tax Act principles and rules must be followed.

Exemptions to this Policy may be granted in writing by the City Clerk and Solicitor and/or the Deputy City Clerk, in consultation with the Integrity Commissioner as necessary.

2 Guiding Legislation

The guiding legislation for the Council Expense Policy is the *Municipal Act, 2001*. Section 224 of the Act describes the role of City Council:

- To represent the public and to consider the well-being and interests of the municipality;
- To develop and evaluate the policies and programs of the municipality;
- To determine which services the municipality provides;
- To ensure that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;
- To ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality;
- To maintain the financial integrity of the municipality; and
- To carry out the duties of council under this or any other Act.

Section 225 further describes the role of the Mayor as Head of Council:

- To act as Chief Executive Officer of the municipality;
- To preside over council meetings so that its business can be carried out efficiently and effectively;
- To provide leadership to the council;
- To provide information and recommendations to the council with respect to the role of council to ensure administrative, accountability and transparency policies are in place;
- To represent the municipality at official functions; and
- To carry out the duties of the head of council under this or any other Act.

3 Budget Allocation and Administration

3.1 Budget Allocation

Constituency Services Budget for Members of Council

Members of Council are provided with a Constituency Services Budget with which to run their offices. Expenses include items such as: community events, contributions, donations and sponsorship, office supplies and staffing. Members of Council cannot exceed their annual Constituency Services Budget. Any over-expenditure is the personal responsibility of the Member and to be paid personally by the Member.

There is no carry-over of deficits or surpluses from one year to the next. This is particularly important in an election year since sufficient funds must remain for the newly elected representatives to operate their offices.

Where it appears that a Member's Constituency Services Budget may be overspent, the Deputy City Clerk will advise the Member in writing as soon as a risk is identified and, in conjunction with the Manager, Council Support Services or the Manager, Mayor Support Services, as appropriate, work towards resolving the matter with the Member.

Council Administration Budget

The budget for the Elected Officials is overseen by the City Clerk and Solicitor. Under the supervision of the Deputy City Clerk, the Council Administration Budget is used to finance a range of items commonly used in the operation of each Office, as well as cover certain other expenses supporting the Council or required by the *Municipal Act, 2001*.

The salary, benefits and transportation allowance of all Members of Council will be drawn from the Council Administration Budget. The Council Administration Budget may also fund travel by Members of Council to conferences, Board or committee meetings of municipal organization or similar events in accordance with relevant, approved policies and procedures.

3.2 Spending Guidelines and Accounting Procedures

Members' claims for expenses must follow basic accounting and audit principles and the following guidelines:

- Expenses must relate to the business of the City of Ottawa; Members and their staff cannot claim expenses of a personal nature;
- Expenses must be consistent with what is permitted in the Office Manual;
- No expense shall create a conflict of interest, or the appearance of such a conflict, that may arise through the purchase of goods or services from a family member;
- Members or their staff must incur the expenses. Expenses incurred by third parties cannot be claimed;
- Members' budgets shall not be used to provide a personal benefit to specific individual citizens or businesses (i.e. payment of tax penalties, parking tickets, sponsorship of personal travel, etc.).

- Members and their staff must provide proper documentation, including detailed original receipts and a breakdown of taxes, for all expense claims. Credit card receipts or statements alone are not sufficient and will not be accepted. In the case of any on-line purchases, a copy of the confirmation must be attached to the claim. Members or their authorized staff must sign off on all receipts or invoices with original signatures. Documentation with only signature stamps or electronic signatures will not be accepted;
- Delegation of signing authority to staff must be documented on the appropriate form and remitted to the Manager, Council Support Services or the Manager, Mayor Support Services with samples of signatures prior to the transaction;
- Invoices must include a description of the goods purchased or services rendered, the cost, applicable taxes and GST Registration Number. In the event a GST Registration Number is not provided, Members' Assistants are required to contact the vendor to obtain the information;
- The City of Ottawa is exempted from GST. GST paid to vendors will not be included in the amount charged to the Member's Constituency Services Budget;
- Any material and intellectual assets purchased through the use of the Constituency Services Budget are the property of the office, not the Member. Original receipts and a photograph of the purchase are required for inventory purposes;
- All donations to charities funded by the Constituency Services budget shall be accomplished by means of a cheque or purchasing card payment and any charitable receipt shall be made out to the City of Ottawa. Charitable receipts shall be given to the Manager, Council Support Services or the Manager, Mayor Support Services. Neither Members nor their staff will be reimbursed for charitable donations provided in cash unless accompanied by the charitable receipt.
- Communications and advertising expenses for a geographic area outside of a Member's ward will not be permitted without prior approval from the City Clerk and Solicitor or the Deputy City Clerk, in consultation with the Integrity Commissioner. Notwithstanding, it is recognized that community newspaper circulation and some unaddressed postal walks will cross ward boundaries, and these are exempt where outside the Member's control;
- Expenses must be charged to the year in which they occurred. Expenses cannot be carried forward to different years;

- Members who charge for goods against the current year must have received the goods and/or services from the vendor before December 31 of that year;
- Original receipts must be submitted within 90 days of purchase and no later than the final date for processing payments within a budget year as determined by the Finance Department;
- At the end of the year, when expenses have been incurred but invoices are not yet received, Members must inform the Manager, Council Support Services or the Manager, Mayor Support Services, as appropriate, so that a proper liability can be set up. Invoices from previous years that have not been set up as liabilities will not be paid or reimbursed from the previous year's budget. Payment may be made against the current year's budget;
- To ensure financial integrity, Members of Council must sign off on disbursements/reimbursements directly payable to their staff. Further, the City Clerk and Solicitor or the Deputy City Clerk must sign off on disbursements/reimbursements directly payable to Members of Council;
- Where a Member of Council or their staff is requesting reimbursement for an expense, proof of payment must also be submitted; and
- Members of Council can obtain a Corporate Card or a Purchasing Card, which provides more flexibility with respect to purchasing goods and services, including travel expenses. Both cards are accompanied with specific reporting and accountability requirements.

4 Public Disclosure

Expense reports are prepared on a monthly basis for each Member of Council. The reports are broken down into a series of categories for ease of reference. An itemized report is provided for expenses related to donations and sponsorships, hospitality, special events and travel. Members of Council must take note of the specific documentation requirements of certain allowable expenses and ensure that the appropriate details are provided. An annual release of each Member of Council's final budget figures will also be disclosed.

Further, and in accordance with the legislated requirements of the *Municipal Act, 2001*, a Statement of Remuneration, Benefits and Expenses Paid to Council Members and Council Appointees, and Police Services Board members, will be reported to Council each year.

In the spirit of accountability and transparency, the individual office expenses for Members of City Council are publicly disclosed on the City's website.

Conditions and Requirements for Public Disclosure

• **Contributions and Sponsorship**

- Contributions must be accompanied by a request from the organization with details about the group and the purpose of the contribution.

• **Hospitality offered by Members**

- Identify business purpose and date for the meeting expense;
- Original itemized receipt indicating items consumed and total cost;
- The name and location of establishment; and,
- Full name of all participants attending meeting must be provided, as well as their affiliation if they are representing an organization or business. The names of individuals receiving hospitality are not confidential.
- Members are not required to list the names of attendees for community events of a social, protocol or ceremonial nature or events involving large groups (over 10 people), school events or similar events where no City business is transacted or the names of any minors receiving hospitality.

• **Special Events attended by Members**

- Exact name of event must be provided;
- Date and location of the event;
- The name of any individual who attended with the Member must be provided;
- Detailed receipts and invoices of any expenses incurred; and
- A copy of tickets purchased.

• **Travel**

- Identify where the meeting was held, the duration, and the purpose;
- Travel reimbursement must include any itinerary confirming travel dates and airline booking, an original hotel invoice itemizing room costs and other

incidentals, conference brochure confirming the cost and conference date and taxi / parking receipts; and

- Members must report to the Integrity Commissioner, before the first date of travel, all travel costs funded by an eligible body under the Code of Conduct.

5 Restrictions on Expenses

5.1 Contributions

- Unless otherwise approved by motion of Council, contributions are limited to 3.5% of the Members annual Constituency Services Budget;
- Contributions shall be made via City of Ottawa cheques to a community group or organization, not by Councillor or staff personal cheques;
- Unless otherwise approved by motion of Council, contributions to individuals, businesses or City funded services and departments are prohibited; and
- The purchase of material assets as contributions is prohibited.

5.2 Expenses

- No expense shall create a conflict of interest, or the appearance of such a conflict, that may arise through the purchase of goods or services from a family member;
- Alcohol is not a permitted expense;
- Personal expenses (i.e. clothing, etc.) are not eligible expenses; and
- Gifts for Members' staff or other employees of the City, its agencies, boards, commissions and special purpose bodies are not eligible expenses.

5.3 Interpretation and Exemptions

The Deputy City Clerk and Councillors may consult with the Integrity Commissioner for guidance with respect to individual Councillor expenses or any interpretation on the application of this policy.

Where the Deputy City Clerk and the Integrity Commissioner have been consulted and a determination has been made that expense is appropriate, an exemption may be granted in writing.

6 Election Year Budget Restrictions

In a municipal election year, and in relation to a municipal by-election, certain restrictions are placed on Member's Office Budgets and the allowable expenses that can be incurred. These restrictions are set out in the *Election-Related Resources Policy*.

Community, Fundraising and Special Events Policy

1. Scope

This policy supplements the Code of Conduct for Members of Council and the Council Expense Policy and is not intended to affect the entitlement of a Member of Council to:

- Use her or his Constituency Services Budget to run or support community events subject to the terms of the Council Expense Policy;
- Urge constituents, businesses and other groups to support community events staged by others in the Member's Ward or elsewhere in the City;
- Play an advisory or membership role in any organization staging community events in the Member's Ward; and
- Participate with the City and its agencies in staging of community events.

2. Council Member-Organized Community Events

There are cases where Members seek and receive donations or sponsorships to organize events that benefit their ward, the city or a local charity. For the purposes of this and related policies, these are termed 'benevolent activities'. Where Members undertake a benevolent activity, Members shall:

- Open a City account with the Manager, Council Support Services;
- Account for all funds, goods and services donated, including a list of all individuals and organizations who donated;
- Account for all expenses and distributions undertaken for that activity;
- Not solicit or accept donations from lobbyist or their clients or their employees with active registrations in the Lobbyist Registry without pre-approval from the Integrity Commissioner;
- Not use any funds, goods or services received for the benevolent activity for any other purpose;

- Report on these activities as part of Public Disclosure on an annual basis in recognition of the fact that preparation for a benevolent activity can take several months; and
- In an election year, a Member of Council must not seek donations and sponsorships for any event that has not been staged in the previous two years nor accept donations or stage any event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Ottawa.

An event is considered to have been staged in the previous two years if it meets the following criteria:

- has a very similar, if not the same, event name/title
 - takes place at approximately the same time
 - has the same general purpose;
- In the case of repeat annual events, a reasonable operational amount may carry over to a subsequent year; and
 - At end of a Member's term, any funds remaining in such accounts shall revert to the appropriate charity or organization or to the Council Administration Budget in the same manner as a surplus of a Member's Constituency Budget as the case may be.

Support for Benevolent Activities and Events

Members of Council are called upon to assist and support various charities, service clubs, and other non-profit and community-based associations. For example, Members support their communities in a variety of ways including, but not limited to:

- accepting honorary roles in organizations;
- lending their names to organization and events to assist in fundraising; and
- encouraging community and corporate donations to registered charitable, not-for-profit, or other community-based groups.

As civic leaders and public office holders, Members of Council supporting community endeavours and projects must also exhibit transparency with their involvement and carry out their community service in a manner that promotes public confidence.

Members of Council shall not use the influence their office for any other purpose than the lawful exercise of their official duties and for municipal purposes.

When considering whether to support a third party by organizing a fundraiser or benevolent event Members of Council shall disclose all material facts to the Integrity Commissioner and obtain a written opinion from the Integrity Commissioner approving the activity, which concludes that the Member does not have a conflict between his/her private interest and public duty.

In circumstances where the Integrity Commissioner has provided a written opinion approving the activity, the Member shall:

- Ensure that they or their staffs do not directly solicit any funds, nor that they receive any funds that are solicited by the organization;
- Ensure that all donations shall be payable directly the organization and all in kind donations will go directly to the organization;
- Ensure that their commitment and support does not require significant staff time and/or City resources;
- Not participate directly in decisions on the disbursement of funds or in the determination of the beneficiaries of the funds and remain at arm's length from the financial aspects of these external events without pre-approval from the Integrity Commissioner; and
- Ensure that if more than \$25,000 in funds net of expenses is raised, the organization is encouraged to publicly disclose audited statements, which should include a list of receipts, expenses, donors and disbursements to beneficiaries.