

EX 22.6 Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol

(June 16, 2008) Report from the Integrity Commissioner

Committee Recommendations

The Executive Committee recommends that Council:

1. Approve the two Codes of Conduct for members of local boards (restricted definition) set out in Appendices I and II of this report.
2. Approve the Code of Conduct for Members of Council set out in Appendix III of this report.
3. Approve the Code of Conduct Complaint Protocol for Members of Local Boards (Restricted Definition) including Adjudicative Boards set out in Appendix IV of this report.
4. Approve the Code of Conduct Complaint Protocol for Members of Council set out in Appendix V of this report.
5. Direct the City Manager to submit a report to the Executive Committee on extending the Indemnification Policy for Members of Council and Management and Excluded Staff adopted by Council on November 24, 2005 to members of local boards.
6. Not proceed at this time with the proposal to include a general conflict of interest provision in the Members Code of Conduct.
7. Not adopt the motion repealing Article XIII of the Code of Conduct (“Conduct Respecting Lobbyists”).
8. Approve the inclusion of a provision in the Code of Conduct Complaint Protocol for Members of Council placing a moratorium on the filing of Code of Conduct complaints against Members seeking re-election from Labour Day in an election year until the new Council is sworn in.
9. Approve as part of the policy governing Members’ use of their Office Expense Budget that Members of Council who are the subject of an Integrity Commissioner investigation be entitled to charge against that budget the cost of an initial legal consultation but restricted to one hour and a maximum value of \$500.
10. Approve the following addition to item (f) in the list of permissible gifts and benefits:

...or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity.

11. Approve the following addition to the list of permissible gifts and benefits provided for in Article IV of the Code of Conduct.
 - (i) sponsorships and donations for community events organized or run by a member or a third party on behalf of a member, subject to the limitations set out in the Policy on Council Member-Organized Community Events.

12. Adopt the following Policy on Council Member-Organized Community Events:
 - (a) Donations must be for specific community events held on a specific date or a specific series of dates. Members of Council should not seek donations in money or in kind for ongoing or new programs that have been or could be offered through City programs, and which have a separate donations policy.
 - (b) Support for the events (whether in money or in kind) shall not exceed \$10,000 annually (whether for a single event or multiple events). (This amount does not include moneys or goods collected at any event in support of a charity or other cause if those donations go directly to the charity or cause.)
 - (c) A member of Council or a third party acting on behalf of the member shall neither solicit nor accept support in any form from those registered as lobbyists with the City, or developers with any pending planning, conversion, demolition or sign variance application. This prohibition extends to the negotiation of community benefits outside of the formal section 37 processes.
 - (d) Members of Council must report to the Director, Council and Support Services, in a manner and form prescribed by the City Clerk, on the source, details and value of all donations for community events prior to the event (if it is anticipated that the value of donations will exceed \$500) and a statement of accounts subsequent to the event if the value of the donations has exceeded \$300). This report shall include a genuine estimate of the value of in-kind donations. All donations and expenses paid for by donations are subject to the same administration, accounting and disclosure requirements as expenses charged to Office Expense Budgets.
 - (e) All donation cheques should be made out to the City of Toronto and accounted through the City Clerk's Office. Members of Council or third parties acting on behalf of members should not hold or administer donations in separate personal accounts.
 - (f) Surpluses should be minimized with accurate estimation of event costs and requirements. Surpluses (including in-kind donations such as equipment) should be returned to donors or transferred to general Council revenue. Under no circumstances, can a surplus be used for a different community event and, in particular, in supplementation of a member's office operations. Any surplus will count against the member's \$10,000 annual limit in the year in which it is used or drawn upon. Multi-year donations are not permitted.

- (g) The City Clerk, in consultation with the Treasurer, will develop detailed procedures and guidelines regarding the receipt and accounting of donations for Council member community events, including the administration of surplus funds.
- (h) This policy does not affect the entitlement of a member of Council to
 - (i) use her or his office expense budget to run or support community events subject to the terms of the Councillor Expense Policy;
 - (ii) urge constituents, businesses and other groups to support community events staged by others in the member's Ward or elsewhere in the City;
 - (iii) play an advisory or membership role in any organization staging community events in the member's Ward; and
 - (iv) team with the City and its agencies in the staging of community events.
- (i) Under clause (h) members of Council should not handle any funds on behalf of these organizations and should remain at arms length from the financial aspects of these external events.
- (j) In an election year, a member of Council must not seek donations and sponsorships for any community event that has not been staged in the previous two years nor accept donations or stage any community event supported by donations and sponsorships after he or she has filed nomination papers for election to any office in the City of Toronto.

A community 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.

13. Approve the removal from the Code of Conduct of the Schedule ("Role and Responsibilities of the Council Members and Staff") and the two appendices on Acts governing conduct.
14. Authorize the Integrity Commissioner in consultation with the City Manager and City Solicitor to make additional technical amendments as necessary to the Codes of Conduct and Complaint Protocols to ensure a consistent style and to reflect the additional amendments authorized in the above recommendations and future amendments to these documents.

Financial Impact

The adoption of the recommendations in this Report will have no additional financial impact.

Summary

Council has referred a number of aspects of the Code of Conduct for Members of Council and Local Boards (Restricted Definition) (“Code of Conduct”) to the Integrity Commissioner: the possibility of including a general conflict of interest provision, a motion for the suspension of investigations in the six months leading up to a Municipal Election, a motion that Members who are the target of a complaint should be entitled to recover the costs of an initial consultation with a lawyer, and a request for recommendations for a policy permitting Members to accept donations and sponsorships for community events that they are organizing. Council has also referred to the Executive Committee a motion for the repeal of Article XIII of the Code of Conduct (“Conduct Respecting Lobbyists”).

In addition, there were a number of issues arising out of City Council’s adoption in 2006 of various revisions to the Code of Conduct. Most of these flowed from the work of the Bellamy Recommendations Steering Committee (“Steering Committee”), and the passage of the City of Toronto Act, 2006 (“COTA”): whether to update and retain the original Schedule as part of the Code of Conduct, and whether there should be a separate Code of Conduct for members of local boards (restricted definition). Finally, as this Report is being presented at the same time as the Report on the Councillor Expense Policy, it became necessary to ensure that the provisions of the Code of Conduct were consistent with the recommendations in that Report.

This report deals with those matters. Its advice to Council is that there are legal impediments to inserting a general conflict of interest provision in the Code of Conduct. It also rejects the proposal for the repeal of Article XIII (“Conduct Respecting Lobbyists”). However, it does recommend that there be a moratorium on the filing of Code of Conduct complaints against Members of Council in an election year from Labour Day until the new Council is sworn in. It also recommends that Council approve an addition to the Code of Conduct Complaint Protocol (“Complaint Protocol”) allowing Members who are the subject of a complaint to charge their Members Office Expense Budget for the cost of an initial hour long consultation with a lawyer to a maximum value of \$500.

The report also proposes the adoption of separate Codes of Conduct for members of local boards (restricted definition) – one general and one applicable to boards that adjudicate, as well as a separate Complaint Protocol for complaints against members of local boards (restricted definition). However, while the report favours the updating and distribution of the Schedule to the Code of Conduct, it recommends that it no longer be a part of the Code of Conduct but a separate stand alone document readily available for informational purposes and guidance to Members, their staff, City Staff and the general public. To ensure consistency with the recommendations in the Report on the Councillor Expense Policy, this Report recommends that Council approve a further addition to the list of permissible gifts and benefits: costs paid by conference, seminar and event organizers at which a member is a speaker or is attending in an official capacity. Finally, the Report contains a series of proposals for giving effect to Council’s policy that Members be allowed to solicit and receive donations and sponsorships for community events that they are holding in their Ward, subject to specific limitations.

Background Information

Report on Issues Arising Out of Operation of Members Code of Conduct and Complaint Protocol

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-13844.pdf>

Appendices I to VI

<http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-13845.pdf>

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