

Consolidated Clause from Report No. 10 of the Administration Committee, as adopted by the Council of the City of Toronto at its meeting held on October 1, 2 and 3, 2002.

4a**Use of Corporate Logo, Donations
and Sponsorships and Personal Funds
by Members of Council**

(City Council on October 1, 2 and 3, 2002, amended this Clause by:

(1) amending the report dated June 11, 2002, from the City Clerk, as embodied in the Clause, by:

(a) striking out Recommendation No. (2) and inserting in lieu thereof the following:

“(2) funds given to Councillors outside of their allocated operating budgets be prohibited;”; and

(b) amending Recommendation No. (3) to now read as follows:

“(3) Members of Council continue to be permitted to pay office and related expenses from their personal funds when dealing with over-expenditures of global office budgets and the matter of paying office and related expenditures out of personal funds be referred to the Ethics Steering Committee for further review;”,

so that the recommendations embodied in such report shall now read as follows:

“It is recommended that:

(1) Members of Council be permitted to apply the City of Toronto corporate logo only to the common applications listed in Appendix A, in a manner which is consistent with the requirements of the Corporate Identity Program. For any other use, or for uses that are inconsistent with the Corporate Identity Program, Members shall seek the prior approval of City Council, such approval to be subject to such terms and conditions as Council may impose;

(2) funds given to Councillors outside of their allocated operating budgets be prohibited;

- (3) *Members of Council continue to be permitted to pay office and related expenses from their personal funds when dealing with over-expenditures of global office budgets and the matter of paying office and related expenditures out of personal funds be referred to the Ethics Steering Committee for further review; and*
- (4) *the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.”; and*
- (2) *adding thereto the following:*
- “It is further recommended that:*
- (a) *the following expenses for Members of Council must be paid for through the Councillors’ global office budgets and not through personal funds:*
- (i) *postage and distribution costs;*
- (ii) *printing services (newsletters, flyers, business cards);*
- (iii) *advertising and promotion and related office expenses; and*
- (iv) *photocopying;*
- (b) *if office expenditures are paid by Members of Council through the use of personal funds, such expenditures be reported to the City Clerk;*
- (c) *Members of Council who have received outside funds, in-kind payments or donations within the last four years, report same to the City Auditor, prior to the end of 2002; and*
- (d) *the City Clerk be requested to:*
- (i) *consult with Revenue Canada and the Canadian Institute of Chartered Accountants with respect to the tax implications of outside corporate donations;*
- (ii) *determine the audit or other functions which would be required to track these donations; and*
- (iii) *submit a report to the Ethics Steering Committee in this regard.”)*

(City Council at its Special Meeting held on July 30, 31 and August 1, 2002, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on October 1, 2002.)

The Administration Committee recommends the adoption of the following report (June 11, 2002) from the City Clerk:

Purpose:

To respond to the request made by City Council respecting the use of the corporate logo, third party donations, third party sponsorships and personal funds by Members of Council.

Financial Implications and Impact Statement:

There are no financial implications.

Recommendations:

It is recommended that:

- (1) Members of Council be permitted to apply the City of Toronto corporate logo only to the common applications listed in Appendix A, in a manner which is consistent with the requirements of the Corporate Identity Program. For any other use, or for uses that are inconsistent with the Corporate Identity Program, Members shall seek the prior approval of City Council, such approval to be subject to such terms and conditions as Council may impose;
- (2) this report and the question of third party donations and sponsorships as well as the question of Members use of personal funds be referred to the Ethics Steering Committee for its consideration;
- (3) Members of Council continue to be permitted to pay office and related expenses from their personal funds and the matter be referred to the Ethics Steering Committee for further review; and
- (4) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

On April 23, 24, 25, 26, 27, 30, May 1 and 2, 2001, the Council of the City of Toronto adopted, as amended, Clause No. 2 of Report No. 5 of The Policy and Finance Committee, headed "City of Toronto 2001 Operating Budget".

Contained within this report were recommendations pertaining to the 2001 Operating Budget of City Council.

In considering its operating budget, City Council requested the City Clerk to submit a report to the Administration Committee on the City's policy on the use of the corporate logo as it applies to Members of Council. Council asked that the report comment on third party donations and third party sponsorships as it pertains to Members of Council, and further that it address the issue of any Councillor who has spent any of their own monies or received third party donations or sponsorships.

Comments:

(A) Use of Corporate Logo:

At its meeting of July 4, 5 and 6, 2000, City Council adopted Clause No. 5 of Report No. 14 of The Administration Committee, entitled "Corporate Identity Program Principles for the Use of the City of Toronto Corporate Logo, Coat of Arms and Official Flag".

This report, in part, states the following:

- (1) use of the City of Toronto Corporate Logo indicates City approval and endorsement and, therefore, must always be used in an appropriate manner. This corporate symbol is the property of the City of Toronto. Unless permission is obtained from the City of Toronto, use of these identifiers by third parties is prohibited;
- (2) use of City of Toronto corporate symbols or identifiers must conform to the requirements of the Corporate Identity program wherein the technical specifications of the logo are prescribed; and
- (3) the Corporate Identity Program elements (City logo, coat of arms and flag) may not be used for any non-City business or interest, including for the purpose of election signs or other electioneering material. This includes the display of campaign related signs in windows or on premises.

It is suggested that Members of Council who wish to use the City of Toronto corporate logo for anything that is not a common application listed in Appendix A, and does not comply with the requirements of the Corporate Identity Program, should obtain the approval of City Council, subject to such terms and conditions as Council may impose. This process will ensure that the City's corporate logo is used in a manner that protects the integrity of the City's corporate image.

(B) Third Party Donations and Sponsorships:

Council has adopted a policy on the acceptance of gifts and benefits as set out in the Code of Conduct for Members of Council and has reiterated this in its policy on expenses for Members of Council. These policy statements are set out in Appendix B.

The policies have the effect of prohibiting the acceptance of goods and services from constituents or businesses unless the goods or services can be classified as contributions permitted under the *Municipal Elections Act, 1996*; services provided by volunteers without compensation; or services and goods that are received as incidents of protocol, custom or social obligations.

Receipt of any cash, goods or services in contravention of these policies could be classified as a “pecuniary” benefit to the Member. In addition to contravening the Code of Conduct, there is the concern that in some circumstances such a benefit could put a Member in the position where he or she would have to declare a conflict of interest under the *Municipal Conflict of Interest Act* on the basis of the Councillor’s pecuniary interest in the arrangement. In other circumstances the acceptance of this form of subsidy or other benefits from a person could result in a Member of Council being charged with “breach of trust” under section 122 of the Criminal Code. (Section 122 was applied where a Member of Council accepted undeclared benefits from a person who was carrying on business with the municipality and the facts did not support a charge of municipal corruption under section 123 of the Criminal Code [R. v. Gentile].)

Even if the subsidized arrangement does not result in the application of the *Municipal Conflict of Interest Act* or Criminal Code, such arrangements are inconsistent with the key statements in the preamble of the Code of Conduct for Members of Council. These statements address the public perception of a Councillor’s actions (See Appendix B).

In order to avoid any perceived or real conflicts of interest, Members of Council should not accept donations of cash, goods, services, gifts and other benefits other than those permitted under the Code of Conduct for Members of Council.

In this regard, it is suggested that Council refer to the Ethics Steering Committee the question whether Members of Council should be accepting donations (e.g., use of a barbeque supplied by a gas company or use of a cooler and the donation of orange drink supplied by a restaurant) when the Member hosts a community event (e.g. skating party, bike rodeo, barbeque, etc.).

(C) Use of Personal Funds:

On June 3, 4 and 5, 1998, City Council adopted, as amended, Clause No. 13 of Report No. 7 of The Corporate Services Committee, entitled “Office Administration and Expenses of Members of Council”. This policy provides, in part, that Members cannot exceed their annual global office budget. Any over-expenditure of a Member’s office budget is the personal responsibility of that Member to be covered from personal funds.

During consideration of the 2001 operating budget, Council questioned the appropriateness of Members of Council using personal funds to pay expenses that would normally be permitted to be paid through the allocated office budget or expenses that may be perceived as subsidizing office operations.

The expense policy noted above sets out examples of expenses that can be covered by the Councillors office budget when the Councillor submits invoices for payment or requests reimbursement. The policy does not address instances where the Councillor pays business-type expenses personally and no receipt is submitted to the City for reimbursement.

In fact there are numerous examples of expenditures that Members of Council frequently pay personally that could be charged to their global office budgets. These expenses include, but are not limited to:

- (i) newspaper, book and magazine subscriptions;
- (ii) equipment (e.g.; use of home computer to connect to the office);
- (iii) tickets for community events;
- (iv) mileage (use of personal automobile without mileage claim);
- (v) cell phone; and
- (vi) Skybox hospitality charges.

While these examples may seem innocent there are other expenditures that if paid personally could be viewed as seriously inflating a members global office budget. These include:

- (i) postage and distribution costs;
- (ii) printing services (newsletters, flyers, business cards);
- (iii) advertising and promotion (including fridge magnets) and
- (iv) photocopying.

In this regard, it is suggested that Council refer to the Ethics Steering Committee the question of a Members' use of personal funds to pay for certain expenditures, as well as the question of enforceability.

Consultations:

The City Solicitor, the City Auditor and Director of Corporate Communications have been consulted in the preparation of this report.

Conclusions:

Members of Council who wish to use the logo for anything that is not a common official application listed in Appendix A, or that does not comply with the Corporate Identity Program,

should obtain the approval of City Council. Approval would be subject to such terms and conditions as Council may impose in order to ensure that the City's corporate logo is used in a manner that protects the integrity of its corporate image.

The question of third party donations and sponsorships should be referred to the Ethics Steering Committee for further consideration as should the question of Members' use of personal funds to pay for certain expenditures.

Contact:

Paul Jones, Director, Council and Support Services
Tel. No. 392-8676, Fax No. 392-1867
Pjones@city.toronto.on.ca

Appendix A: Common Applications for the City of Toronto Corporate Logo by Members of Council.

Appendix B: Policies on the Receipt of Gifts and Benefits by Members of Council.

Appendix A

Common Applications for the City of Toronto Corporate Logo by Members of Council

Business cards;

Letterhead;

Stationery including transmittal forms, envelopes, complimentary slips, etc.;

Councillor and corporate newsletters;

Report covers; and

Print advertising and promotional materials in sponsorship or recognition of an event or holiday.

Appendix B

Policies on the Receipt of Gifts and Benefits by Members of Council

- (1) Council's present policy for the expenses of Members of Council includes the specific provision that:
 - (i) Councillors be permitted to spend \$600.00 annually for sponsorships and donations per organization and be included in the Councillors' Expense Policy;
 - (ii) Payments by Councillors of expenses incurred by an outside party (e.g., Outreach groups) not be eligible for reimbursement through the Councillors' global budget; and

- (iii) the receipt of donations of cash, goods, services, gifts and other benefits by Councillors be restricted to those allowed under the Code of Conduct Policy for Members of Council, as approved by City Council on September 28, 1999;

[Office Administration and Expenses of Members of Council, as set out in Clause No. 13 of Report No. 7 of The Corporate Services Committee, as adopted by Council at its meeting held on June 3, 4 and 5, 1998, and as amended by Clause No. 2 of Report No. 4 of The Administration Committee, as adopted by Council on February 29, March 1 and 2, 2000.]

- (2) The Code of Conduct for Members of Council contains the following provision:

II. Gifts and Benefits:

No member shall accept a fee, advance, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office. One example would be that no member should act as a paid agent before Council, or a committee of Council, or any agency, board, or commission of the City. Another example would be that no member should refer third parties to a person, partnership, or corporation in exchange for payment or other personal benefit.

Examples of exceptions to the non-acceptance of gifts or personal benefits by members in relation to their official duties are:

- compensation authorized by law;
- such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol, custom, or social obligations;
- a political contribution otherwise reported by law;
- services provided without compensation by persons volunteering their time;
- suitable memento of a function honouring the member;
- food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country;
- food and beverages consumed at banquets, receptions or similar events; and
- communication to the offices of a member, including subscriptions to newspapers and periodicals.

(3) The preamble to the Code of Conduct for Members of Council also includes the following key statements that are concerned with the public perception of Councillors' actions. These key statements are as follows:

- Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner;
- no Member of Council shall use the influence of their office for any purpose other than for the exercise of his or her official duties;
- Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny; and
- Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, or the City Council.

[Clause No. 2 of Report No. 5 of The Administration Committee, entitled "Code of Conduct for Members of Council Inclusive of Lobbyist Provisions", as amended and adopted by City Council at its meeting held on September 28 and 29, 1999.]

(4) Council has also identified the following matter for consideration by the Ethics Committee as set out in its Terms of Reference (Clause No. 2 of Report No. 18 of The Administration Committee, entitled "Ethics Steering Committee, Recommended Terms of Reference", as amended and adopted by City Council at its regular meeting held on October 3, 4 and 5, 2000, and its Special Meetings held on October 6, 2000, October 10 and 11, 2000, and October 12, 2000):

- (d) policy imposing more specific conditions on the receipt of any gift or benefit by a member (e.g., an upset dollar value limit per annum).