

## **Councillor Expense Policy**

<b>Date:</b>	June 12, 2008
<b>To:</b>	Executive Committee
<b>From:</b>	Ulli S. Watkiss, City Clerk
<b>Wards:</b>	All
<b>Reference Number:</b>	

### **SUMMARY**

---

The report recommends a Councillor Expense Policy that provides consistent, clear and easy-to-understand requirements and procedures related to expenses payable from each Councillor's \$53,100 discretionary office expense budget. The Policy facilitates the diverse roles of Councillors in performing their duties and reflects the role of City Council as the decision-making body of the City of Toronto. The Councillor Expense Policy is independent of the policies that apply to the Administration. The City Clerk is clearly responsible for administering the Councillor Expense Policy.

### **RECOMMENDATIONS**

---

The City Clerk recommends that:

1. City Council approve the Councillor Expense Policy in Attachment 1 and rescind previous policy and reports related to Councillor expenses, in Attachment 2.
2. The City Clerk update the Councillor Expense Policy pursuant to City Council's decision on the Integrity Commissioner's report dated June 16, 2008 and titled "Report on Issues Arising out of Operation of Members Code of Conduct and Complaint Protocol" and the joint report by the City Manager and City Solicitor, dated June 6, 2008 and titled "Review of Indemnification Policy for Members of Council".
3. The Councillor Expense Policy come into effect immediately upon City Council approval. All Councillor expenses incurred after the approval of the Councillor

Expense Policy must be in compliance with the new Policy. Councillors who have incurred expenses prior to City Council approval of the Councillor Expense Policy will have until September 30, 2008 to submit these expenses for reimbursement or payment in accordance with previous policies and documentation requirements. On and after October 1, 2008, reimbursement and payment of all Councillor expenses, irrespective of the date the expense was incurred, will be in compliance with the new Policy.

## **Implementation and Transition**

A detailed manual related to the administration of the Councillor Expense Policy will be distributed to all Councillors. Training and orientation sessions will also be provided to Councillors and their staff. The approved policy and related forms will be posted on the City's internet and intranet sites for ease of reference.

The Councillor Expense Policy comes into effect immediately upon City Council approval. All Councillor expenses incurred after the approval of the Councillor Expense Policy must be in compliance with the new Policy.

Councillor expenses incurred prior to the approval of the new Policy will continue to be processed in accordance with previous policies and documentation requirements until September 30, 2008.

The use of various new forms for expense reimbursement or payment requests will be phased in through the summer. Usage of the new forms is encouraged but not mandatory until September 30, 2008.

On October 1, 2008, the Policy will be fully implemented and enforced. On and after that date, requests for reimbursement or payment of expenses must be in full compliance with the approved Councillor Expense Policy, irrespective if the expenses were incurred prior to Council approval of the Policy. Furthermore, requests for reimbursement or payment of expense will not be processed unless they are submitted with the appropriate forms.

## **Financial Impact**

There are no financial impacts from the adoption of the recommendations of this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting on May 23, 24 and 25, 2007, City Council, in considering the report entitled “Remuneration and Expenses of Members of Council and of Council Appointees to Local Boards and Other Special Purpose Bodies for the Year ended December 31, 2006”, adopted the following motion:

“The Auditor General and the Integrity Commissioner be requested to 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.”

May 23, 24 and 25 Council decision document, EX8.2:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-05-23-cc08-dd.pdf>

At the meeting on December 11, 12 and 13, 2007, Council referred the report by the Integrity Commissioner and the Auditor General, entitled “Councillor Office Expenses -- Councillor Ford and Councillor Holyday” to the City Clerk for consideration, in consultation with the Deputy City Manager and Chief Financial Officer, the Auditor General and the Director, Internal Audit, in developing the forthcoming consolidated Policy on Councillor’s Office Expenses to be submitted to City Council, through the Executive Committee, in time for the April 2008 Council meeting.

December 11, 13 and 13, 2007 City Council decision document, EX15.3:

<http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-12-11-cc15-dd.pdf>

Report:

<http://www.toronto.ca/legdocs/mmis/2007/ex/bgrd/backgroundfile-8804.pdf>

## **ISSUE BACKGROUND**

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.

The proposed Councillor Expense Policy supersedes and replaces all previous policies and reports regarding Councillor expenses, as detailed in Attachment 2.

All other Council policies related to Councillors remain in force.

## COMMENTS

The Councillor Expense Policy provides a consolidated policy regarding Councillor expenses that are paid out of each Councillor's annual discretionary office budget of \$53,100. The Policy outlines the categories and types of allowable expenses that can be charged to the Councillor's Office Expense Budget, including details for each type of expense, documentation requirements and forms to be used for reimbursement.

The Policy is similar to the Province of Ontario's policies on allowances for Members of Provincial Parliament and expenses for Ministers, Parliamentary Assistants and Opposition Leaders. In many respects, aspects of the current policy were already similar, though Provincial policies have had to be modified to accommodate City legislation and circumstances as there are major differences between the two levels of orders of government.

The report outlines research conducted in other jurisdictions, key principles of the Policy and major changes to current practices under the new Policy.

### **1. Review of Other Jurisdictions**

The City Clerk's Office conducted extensive research on the policies and procedures guiding other public and private sector governing bodies. Research covered the Provincial Legislature, the House of Commons, and six larger Canadian municipalities (Ottawa, Hamilton, Edmonton, Calgary, Vancouver and Halifax). In addition to telephone interviews, staff also met with the Clerk and senior staff of the Office of the Legislative Assembly of Ontario on the policies and procedures related to allocations and services provided to Members of the Provincial Parliament.

Staff researched types of allowable expenses, review mechanisms and disclosure methods. Research findings are included in Attachment 3.

Three key findings from the research are:

- Elected officials in other orders of government have their own policies and procedures and are treated separately from the public service.
- The range and types of expenses differ from jurisdiction to jurisdiction but in almost all cases, eligible and ineligible expenses are specifically set out.
- Almost all other public sector bodies have some kind of mechanism for peer review of Member expenses and policies.

#### The Provincial Model

As the *City of Toronto Act 2006* provides the City with permissive powers and considers the City as a mature order of government, staff looked towards other mature orders of government as guidance in preparing the City's Councillor Expense Policy.

In reviewing how the provincial model can be applied to the City, it is also important to understand the context and the major differences that exist between the City and the Province of Ontario:

- The Provincial model distinguishes between MPP expenses and expenses of Cabinet Ministers, Parliamentary Assistants and Opposition Leaders. Operation of the Legislative Assembly of Ontario is guided by the *Legislative Assembly Act*. MPP expense policies are set by the Board of Internal Economy and the administration of MPP expenses are reviewed annually by the Auditor General. Expenses of Ministers and Opposition Leaders and their staff, on the other hand, are subject to the *Cabinet Ministers' and Opposition Leaders' Expense Review and Accountability Act, 2002*, and are reviewed by the provincial Integrity Commissioner and disclosed through an annual report. In the City, all Councillors have the same expense entitlements.
- MPPs operate under a political party system, where certain expenses are paid through riding associations and expense issues are resolved at the first level through caucus administrators.
- MPP expenses are specifically exempted from the provincial *Freedom of Information and Protection of Privacy Act*. Councillor expenses, on the other hand, are subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- Once the writ is dropped for a general election, MPPs are not entitled to any allowance for expenses. There is a clear distinction between a MPP's role as a sitting member and as a campaign candidate.
- The Clerk of the House heads the administration of the Office of the Legislative Assembly, which is independent from the provincial government and the Ontario Public Service. In the City of Toronto, the City Clerk has a dual role, reporting directly to Council and also administratively to the City Manager.

## **2. Scope**

The policy applies to expenses funded by the \$53,100 Councillor discretionary office budget. It does not comment on the funding level of the discretionary office expense budget as the City's annual operating budget process is the appropriate vehicle for funding level considerations.

## **3. Key Principles of the Policy**

The recommended Councillor Expense Policy is based on six fundamental principles:

*Autonomy of Council* – Council as the decision-making body of the City is separate and distinct from the City administration.

*Integrity of Council* – the policy reflects and protects the integrity of Council and the office of the Councillors as a whole.

*Accountability* – Councillors 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. The public expects that Councillors use public funds prudently.

*Transparency* – The public has a right to know how Councillors use office funds and expenses. However, access to information must be balanced against the need to protect privacy and personal information and allow time for proper accounting reconciliation.

*Equitable access to resources* – All Councillors should have equal access to City resources to ensure a level playing field regardless of personal financial circumstances.

*Flexibility and limits* – The policy provides the flexibility for Councillors to manage their offices differently, according to their different interests, the diverse profiles of their wards and their different roles on Committees. This flexibility, however, is constrained within clear parameters of allowable expenses, as well as basic accounting, audit and Income Tax requirements.

The Councillor Expense Policy was also developed with a view to ensuring that the Policy supports and enables Councillors to perform their diverse roles as elected officials. The *City of Toronto Act, S. 131*, defines the role of Council as:

- To represent the public and consider the well-being and interests of the City;
- To develop and evaluate the policies and programs of the City;
- To determine which services the City 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 City, including the activities of the senior management of the City;
- To maintain the financial integrity of the City; and
- To carry out the duties of Council under this or any other Act.

As Members of Council, Councillors have legislative, representative, community development and stewardship roles.

#### **4. Councillor Expense Policy – Key Changes**

The key changes to current practices are summarized below.

##### **(a) Changes to Allowable Expenses**

*Business Meals and Hospitality Expenses*  
[Councillor Expense Policy, Section 5, pages 19 and 20]

The Provincial Legislative Assembly does not allow hospitality expenses for Members of Provincial Parliament, except an annual allowance of \$500 for expenses at the Legislative

Assembly Dining Room for the Member and one guest. Ministers, however, can incur additional hospitality expenses when extending hospitality to an external party.

The Councillor Expense Policy enables Councillors to incur hospitality expenses for meetings with third parties, such as constituents; business contacts; representatives from other levels of government; and international delegations or visitors.

The Policy provides a business meal allowance of up to a maximum of \$500 per year for business meal expenses only, excluding alcohol, for meetings with Councillors' staff, other Councillors, City staff and staff of the City's agencies, boards, commissions and special purpose bodies. Given the heavy demands on Councillors' schedules, there are legitimate circumstances that require business meetings over a meal period and the Policy provides an allowance for this purpose.

#### *Community Expenses*

*[Councillor Expense Policy, Section 5, pages 21-23]*

There is a range of expenses that support a Councillor's role in community development and engagement activities in their ward.

For MPPs, these expenses are often paid for by political parties through caucus funds. This mechanism does not exist for Councillors. The Councillor Expense Policy provides that community expenses are allowable expenditures from the \$53,100 office expense budget.

Community expenses cover the following types of expenditures:

- Community events and related expenses
- Gifts and promotions
- Tickets to functions and events

Gaming tickets during charitable functions, such as raffle tickets, table prize tickets, etc. are not eligible for reimbursement.

Donations received for community events and expenditures funded by donations are subject to the same disclosure requirements as expenses funded by the office budget.

Also before Council is a report by the Integrity Commissioner dated June 16, 2008 and titled "Report on Issues Arising out of Operation of Members Code of Conduct and Complaint Protocol". The report addresses, among other items, donations to Councillors' community events.

#### *Donations and Sponsorships to Community Organizations*

The current City practice allows Councillors to make donations to community organizations or sponsor local sports groups up to \$600 per organization per year. The

Councillor Expense Policy provides that donations and sponsorships to community organizations are not eligible for reimbursement.

While donations and sponsorships can assist small community organizations and facilitate under-resourced agencies and groups, there are several issues with including sponsorships and donations as an eligible expense.

The City has established mechanisms through its annual grant process to provide financial assistance to community groups. The City's process includes clear criteria on eligibility and tracking mechanisms for outcomes. Donations and sponsorships from Councillors are often based on request letters by sponsorship seeking organizations and it is difficult for Councillors to verify requests and organizational information.

Councillors have large numbers of small community organizations and groups in their wards. Selecting particular groups and organizations that benefit from donations and sponsorships may lead to perceptions of favouritism and the promotion of inequity among organizations.

Lastly, there is a public perception that Councillors use their ability to make donations or sponsorships to generate goodwill with select community groups and garner support for re-election. This perception may become especially acute during an election year, and may lead to unnecessary complaints or court challenges.

#### *Consulting and Legal Expenses*

*[Councillor Expense Policy, Section 5, pages 25 and 27]*

Consulting and legal expenses are eligible expenses for reimbursement only in certain circumstances and only when City staff cannot provide the information or advice.

Councillors should seek the professional advice of City staff on issues related to their role respecting committees, such as the Committee of Adjustment or planning matters prior to retaining consultants. The Councillor Expense Policy provides that consulting expenses are eligible for reimbursement in limited circumstances such as to provide specific research and information when City staff are not available to support the Councillor's requirements.

Legal fees are not an eligible expense in the following situations:

- Acts as a second opinion to advice already provided by the City Solicitor
- Seeks to contradict or weaken an approved City position
- Supports a community group against a City position.

Members must first consult with the City Solicitor prior to incurring any legal fees to ensure the expense will be eligible for reimbursement.



Under the current policy, legal fees are allowable expenses only if they are related to the Code of Conduct Complaint Protocol for Members of Council and the Indemnification Policy for Members of Council.

Legal fees for personal conflict of interest interpretations are not eligible for reimbursement as there has been case law which specifically prohibits municipalities from paying such expenses.

Also before Council is the Integrity Commissioner's report, dated June 16, 2008 and titled "Report on Issues Arising out of Operation of Members Code of Conduct and Complaint Protocol" and the joint report by the City Manager and City Solicitor, dated June 6, 2008 and titled "Review of Indemnification Policy for Members of Council." The section in the Councillor Expense Policy related to legal expenses will be updated pursuant to Council's consideration and decision on these two reports.

*Councillor Travel Expenses*  
*[Councillor Expense Policy, Section 5, pages 39-41]*

The threshold for Councillor travel is currently set at \$3,500. Since 1998, inflationary increases in costs of airfare and hotel accommodation have been significant, with airfares doubling and average hotel rates increasing by 80%. The Councillor Expense Policy increases the threshold for Councillor's travel expenses requiring Council approval to \$7,000 to reflect the higher cost of travel, including recent surcharges related to high gas prices. Councillor travel exceeding \$7,000 will continue to require City Council approval.

The Policy also increases the per diem from \$65 to \$100 a day to reflect increases in the cost of living. The per diem is adjustable to enable Councillors to also claim for reimbursement for hospitality expenses incurred during City business trips.

**(b) Using Personal Funds**  
*[Councillor Expense Policy, Section 4.6, page 13]*

The current City policy limiting the use of personal funds by Councillors for certain types of expenses is based on the premise that Councillors with different personal means should be able to operate their offices with the same resources. However, this policy has been misinterpreted as the City forcing Councillors to use public funds to pay for office expenses.

The current policy states that Members of Council cannot use personal funds for four types of office expenses: postage and distribution costs, printing services (newsletters, flyers, business cards), advertising and promotion and related expenses and photocopying.

The Councillor Expense Policy provides that Councillors may use personal funds for all types of office expenses.

To ensure that a level playing field continues irrespective of the personal financial circumstances of Councillors, and that expenses using personal funds are accountable and transparent, the Policy requires that:

- The upper limit of \$53,100 is set for Councillor expenses, irrespective of source of funding. The same limit for expenses applies, whether Councillors use public funds, personal funds or a combination of the two.
- Office expenses paid for by personal funds are subject to the same accountability mechanisms including filing all receipts with the City Clerk on a monthly basis.
- All expenses regardless of funding source are disclosed in the same manner through a quarterly disclosure report posted on the internet and in the annual Report on Remuneration and Expenses for Members of Council.

Kilometrage, business meals, personal cell phones and parking expenses are often not tracked by Councillors though they are City business-related. Requesting reporting and filing of these expenses would be onerous and cumbersome. The Policy recommends that these four specific expenses, if paid for with personal funds, be exempted from the requirement of reporting and filing with the City Clerk.

The joint report by the Auditor General and the Integrity Commissioner, dated November 8, 2007 and titled “Councillor Office Expenses – Councillor Ford and Councillor Holyday”, found that Councillor Holyday complied with policies and has filed his office expenses with the City Clerk, while Councillor Ford was not in compliance with City policy by not filing any expenses receipts with the City Clerk. Councillor Ford has subsequently filed his expenses using personal funds with the City Clerk and these were disclosed in the 2007 Report on Remuneration and Expenses for Members of Council. The recommended Councillor Expense Policy clarifies the rules and responsibilities for all Councillors, including the filing of expenses when using personal funds.

**(c) Use of Corporate Resources during an Election Year**  
*[Councillor Expense Policy, Section 4.7, pages 13-16]*

*The Municipal Elections Act 1996* explicitly forbids any municipality from contributing resources to support a candidate in a municipal election.

The current Council-approved policy, “Use of Corporate Resources during an Election Year”, sets nomination day in an election year as the date after which Councillors are not allowed to expend City funds on advertising, promotion, newsletters and events. In order to ensure that the City is in compliance with the *Municipal Elections Act, 1996*, and to enhance the perception of fairness, the Policy recommends that the cut-off date for advertising, promotion, events and newsletters distributed by Councillors be moved to the first Monday in September (Labour Day) of an election year.

Councillor communications with their constituency on Community Council, Committee and Council matters or during emergency situations will continue to be allowed after the cut-off date.

**(d) Review Mechanism**

*[Councillor Expense Policy, Section 4.8, page 16]*

The City Clerk has the ultimate responsibility and authority for reviewing all Councillor expenses, and ensuring that expenses reimbursed comply with the Policy and have sufficient documentation.

During the first year of this Policy, the City Clerk will monitor the implementation of the Policy and evaluate the need for any Policy amendments. If required, the City Clerk, in conjunction with the City Manager, will report back to City Council after the first year of implementation on any recommended Policy changes.

**(e) Disclosure**

*[Councillor Expense Policy, Section 4.9, page 16]*

Contrary to MPP expenses, which are explicitly exempted from the provincial *Freedom of Information and Protection of Privacy Act*, Councillor expenses are subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

The City of Toronto's routine disclosure policy states the City will pro-actively disclose the information that it holds except for personal and private information. Section 15 of MFIPPA states that a "head may refuse disclosure if the information contained in the record will be published by an institution within 90 days after the request is made."

Routine disclosure of Councillor expenses allows the City to provide this information to the public in a pro-active and co-ordinated manner.

Members' expenses are currently reported annually by the City Clerk and the Treasurer as legislated by the *City of Toronto Act, 2006*. The Councillor Expense Policy provides that Councillor's expenses will be routinely disclosed each quarter by publishing on the internet details of year-to-date office expenses within 30 days of the closing of the quarter.

With the implementation of this disclosure mechanism, the City of Toronto will have the most open, accessible and transparent regime for disclosing the expenses of its elected officials of any government at any level in Canada.

**5. Services and Resources Provided to Councillors**

Councillors receive a base level of services and resources from the Council general expense budget and from various City programs to facilitate their operations. These resources include City Hall space and furniture, computer equipment, office supplies etc. In order to ensure that Councillors are aware of related City resources, services and supports available to them, a summary of Services and Resources provided to Councillors is included in Appendix 1 of the Policy.

## **6. Other Policies Affecting Councillors**

A review of other related policies affecting Councillors is underway to further separate Council from the administration. The City Clerk will report back to Council on recommended Human Resources, Information Technology, Purchasing and other policies applicable to Councillors when these policies have been prepared.

### **CONTACT**

Winnie Li  
Director, Council and Support Services  
Tel: 416-392-8676  
Fax: 416-392-1870  
E-mail: [wli@toronto.ca](mailto:wli@toronto.ca)

### **SIGNATURE**

---

Ulli S. Watkiss  
City Clerk

### **ATTACHMENTS**

- Attachment 1: Councillor Expense Policy
- Attachment 2: Previous Council-approved reports and policies related to Councillor expenses superseded by the Councillor Expense Policy
- Attachment 3: Summary of research: Legislative Assembly of Ontario, House of Commons, and six Canadian municipalities