September 23, 2008

To: City Council
From: City Clerk

Subject: Request for Access to IBMS- GM16.1

Recommendation 2 contained in GM16.1 before Council states as follows:

2. The City Clerk be directed to provide Councillors with access to the IBMS database on matters within their own ward, based on the expert legal opinion with respect to the Municipal Freedom of Information and Protection of privacy Act (MFIPPA) outlined in the communication (July 8, 2008) from Mr. Martin P. Zarnett, of Sandler, Gordon, Barristers and Solicitors (communicationGM16.1.8).

Given the duties and obligations imposed on me for purposes of access under The Municipal Freedom of Information and Protection of Privacy Act, (“MFIPPA”), I can only treat the direction, if adopted by Council, as an access request on behalf of each of the individual Councillors for access to all information contained within the IBMS database.

As Council is aware, IBMS contains personal and law enforcement information, which cannot be generally disclosed, except to those who require it to carry out assigned duties and responsibilities.

While every effort is being made to provide all disclosable information to Councillors, the personal and law enforcement information cannot be redacted at this time. Accordingly, I will be refusing access to the request for information.

My decision may be appealed to the IPC and any further decision of the IPC may be judicially reviewed. Again, given the significant implications for the release of personal and other sensitive information and the obligations imposed on me, this would also be an appropriate route to resolve the competing legal opinions and settle the issue of councillor access within the context of councillors’ roles and duties under the City of Toronto Act. Council may wish to retain Mr. Zarnett to further councillors’ position in such proceedings.

Ulli S. Watkiss
City Clerk