REPORTS NOT RELATED TO THE JURISDICTION OF ANY COMMITTEE

REPORT OF THE

SECRETARIAT COMMITTEE OF COUNCIL

DATED JULY 21, 1994

On motion of Councillor Reese, the Report of the Secretariat Committee of Council, dated July 21, 1994, was considered.

Her Worship the Mayor and Councillors:

Reporting of Attendance to Council
File GC-9

1076 - 1. In accordance with Council policy, the City Clerk's Department currently reports to Council, on a semi-annual basis, on the attendance of Members of Council at all meetings of Council, Executive Policy Committee, Standing Committees, Community Committees, Ad Hoc Committees, Sub-Committees, etc., at which a member of the City Clerk's Department is in attendance, or at any Board or Commission meeting where the records are readily available.

In an effort to streamline the reporting process within the legislated jurisdiction of decision-making and accountability, a review of this reporting process was undertaken by the City Clerk's Department.

Prior to 1977, only the attendance records of those Councillors who were members of Standing Committees, Executive Policy Committee and Boards and Commissions were required to be reported. In 1977, the recording process requirements were changed to include the recording of attendance at the beginning and end of every meeting of Council, Standing Committees, and all Boards and Commissions of Council, thus recording those Councillors who arrived late or left early. In 1980, Council directed that attendance of members of Council be recorded for all meetings of Council, Standing Committees of Council, Ad Hoc Committees, Sub-Committees, Community Committees, etc., at which a member of the City Clerk's Department is in attendance or at any Board or Commission meeting where the records were readily available. The requirement for recording time of arrival and departure from meetings was not included.

Attendance reporting in the Council agenda, is lengthy, arduous and not a measure of Councillors' workloads. Councillors may be members of several Ad Hoc Committees and/or Sub-Committees, but the meeting time and work arising out of the meetings may be inconsequential. In addition, in accordance with the numerous committee obligations bestowed upon Councillors, Councillors may be faced with conflicting meeting times and be unable to attend all meetings of committees of which they are members. Further, the obligations of a Councillor are not limited to attending committee meetings. Therefore, the question becomes one of numerous responsibilities, and when attendance is reported, the report may depict a false picture of a Councillor's working activities.

Ad Hoc Committees and Sub-Committees are not decision-making bodies and, although they may make recommendations to Standing Committees, there is no direct accountability for decision-making. In addition, various Boards and Commissions are legislated by by-law and, therefore, maintain their own records in accordance with the requirements of their respective Authority and Terms of Reference. Further, accurate attendance records can be difficult to maintain for committees where a representative from the City Clerk's Department is not required to be in attendance, and such reporting is dependent upon the information given to the City Clerk's Department.

In conclusion, the reporting of attendance of Ad Hoc Committees and Sub-Committees is unnecessary, redundant, and misleading. Accountability and decision-making is a responsibility of Community Committees, Standing Committees, Executive Policy Committee and Council and attendance is reported for Standing Committees, Executive Policy Committee and Council, in accordance with legislated requirements.

Your Secretariat Committee therefore recommends that the current practice of reporting to Council the attendance of Council members be amended so that only the attendance of Community Committees, Standing Committees, Executive Policy Committee and Council require reporting semi-annually, effective November 1, 1994, in keeping with the 1995 Council year.

Report of the Secretariat Committee of Council dated July 21, 1994

Moved by Councillor Reese

Adoption of the clause.

Carried.

Councillor Thomas asked to be recorded as having voted against the clause, in accordance with Rule 50.7 of the Procedure By-law.

The Speaker called the Deputy Speaker, Councillor Reese, to the Chair in order to participate in the debate.

REPORT OF THE

SECRETARIAT COMMITTEE OF COUNCIL

DATED SEPTEMBER 19, 1994

On motion of Councillor Angus, the rule was suspended and the Report of the Secretariat Committee of Council, dated September 19, 1994, was considered.

Her Worship the Mayor and Councillors:

Code of Conduct File GC-2

1077 - 1. At its meeting held on October 20, 1993, Council adopted the following motion, which directed that the Secretariat Committee draft a Code of Code/Ethics for Council approval:

Moved by Councillor Hyman,
Seconded by Councillor Eadie,

WHEREAS Council at its meeting held on September 22 referred the following motion to Executive Policy Committee and subsequently to the Secretariat Committee:

> *"WHEREAS in a democracy, government should be open and accessible and elected officials impartial and responsible to the people;*
>
> *AND WHEREAS the public must have confidence in the integrity of its government;*
>
> *AND WHEREAS City of Winnipeg Councillors are currently subject to the regulations regarding Conflict of Interest under the Municipal Council Conflict of Interest Act;*
>
> *AND WHEREAS in order to strengthen the integrity and to enhance public trust in civic government, it is advisable that a Code of Conduct be developed to supplement existing provincial legislation;*
>
> *BE IT RESOLVED THAT the City of Winnipeg request the Province of Manitoba to enact the necessary legislation to permit the City of Winnipeg, by by-law, to establish a Code of Conduct for the Members of the Council of the City of Winnipeg.";*

AND WHEREAS it was determined at a subsequent meeting of the Secretariat Committee that the terminology "Code of Conduct" in the referenced motion also meant "Conflict of Interest which is covered by Provincial Statute;

AND WHEREAS due to time constraints, the Secretariat Committee was unable to complete its discussions on this issue in order to report in time for the October 20th meeting of City Council;

AND WHEREAS Councillors' Conflict of Interest regulations are contained in provincial Statute, while a Code of Conduct/Ethics could be enacted by Council without Statute amendment;

AND WHEREAS It would be appropriate to deal with these two issues separately;

AND WHEREAS the Municipal Conflict of Interest Act was enacted by the Manitoba Legislature in 1983 and has not been examined for its effectiveness since that time;

AND WHEREAS the Manitoba Council Conflict of Interest Act applies to all Manitoba Municipalities equally, and does not take into account the complexity of issues that the councils of larger urban municipalities are faced with on a daily basis;

THEREFORE BE IT RESOLVED THAT Council concur in the following recommendations, namely:-

1) That the Government of Manitoba be requested to conduct a review of the Municipal Council Conflict of Interest Act, and to adopt a separate act, in consultation with City council, which would be applicable to the City of Winnipeg, or, to adopt legislation which would permit Winnipeg City Council to pass its own Conflict of Interest By-law;

Report of the Secretariat Committee of Council dated September 19, 1994

2) That the Secretariat Committee be directed to draft a Code of Conduct/Ethics for Council approval, which would be applicable to the Mayor and Councillors of The City of Winnipeg;

3) That the Council motion of September 22nd which was referred to the Executive Policy Committee and to the Secretariat Committee, be filed."

The Secretariat Committee began its deliberations in November 1993, at which time it reviewed background information (Appendix "C") and conducted extensive research. In commencing the process of formulating a Code of Conduct, the Committee surveyed other Canadian Municipalities, senior levels of government, some U.S. State Governments and professional organizations with responsibilities or interest in governmental ethics, to determine whether or not other jurisdictions have adopted a code of conduct that covers areas of ethical concern to politicians and to the voting public. Survey results are attached as Appendix "D".

In addition, research material was compiled from both public and private organizations, as well as from university libraries. A bibliography of materials is attached as Appendix "E".

The Secretariat Committee held a public meeting on February 17, 1994, to hear representation, at which time presentations were made by the following persons/organizations:

1) Ms Gloria Mendelson, Former City Councillor, on behalf of Winnipeg Into the Nineties (written brief also submitted); and

2) Mr. Peter Kaufmann, Former City Councillor.

A written brief was also submitted by Robin Wiens, President of the Old St. Boniface Residents' Association. Both briefs are on file in the office of the City Clerk.

Following public participation, the Committee developed a Code of Conduct intended to establish ethical standards for all Members of Council and provide them with guidance to help them avoid improper conduct. These standards are based on concepts of simplicity, fairness and reasonableness and the principle of individual responsibility for one's conduct.

After its review, the Secretariat Committee is of the view that The City of Winnipeg Act should be amended to permit Council by by-law to establish more stringent and additional standards of conduct with respect to the duties of members of Council than those set forth in The Municipal Council Conflict of Interest Act. In the meantime, the comprehensive Code of Conduct being proposed will strengthen existing conflict of interest legislation.

Under The City of Winnipeg Act, the Ombudsman's jurisdiction is restricted to matters of administration concerning Civic Departments or Boards. However, the Secretariat Committee is of the view that the City Ombudsman would be the appropriate Officer to investigate complaints of improper conduct by Members of Council. Consequently, the legislative amendments being requested, as detailed in Appendix "B", include a proposal to add to the legislative mandate of the City Ombudsman, the power to investigate allegations of Code of Conduct contraventions by Members of Council.

Pending Provincial Government consideration of legislative amendments being requested by the City, the Secretariat Committee has developed a Code of Conduct and therefore recommends:

1) That the attached Code of Conduct (Appendix "A") be adopted by Council; said Code to come into effect on the date of Council adoption, and not to be applied retroactively; and

2) That the Provincial Government be requested to pass legislative amendments to *The City of Winnipeg Act*, encompassing the proposed changes listed in Appendix "B".

Moved by Councillor Angus,
Adoption of the clause.

The Deputy Speaker called Councillor Eadie to the Chair in order to participate in the debate.

The motion for the adoption of the clause was put and declared carried.

(See Minute Nos. 1078 and 1079 for attachments)

1078 - Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994

CODE OF CONDUCT
COUNCIL OF THE CITY OF WINNIPEG

In order to strengthen the operation of the City of Winnipeg Council and to enhance public trust, this Code of Conduct supplements existing federal and provincial Conflict of Interest legislation. Members of Council hold office for the benefit of the public and their conduct must be of the highest standard. This conduct is expected by the public and it is critical that they have confidence in the integrity of the Members of City Council.

The Member's sworn declaration of office declares:

> "That I will truly, faithfully, and impartially to the best of my knowledge and ability, execute the office to which I have been elected and that I have not received, and will not receive, any payment or reward, or the promise of payment or reward, for the exercise of partiality, corruption or other improper execution of the office."

This Code of Conduct sets forth guiding principles to enhance the declaration of office:

- *Members shall not engage in any activity, financial or otherwise, which is incompatible with the proper discharge of his/her official duties in the public interest.*

- *Members must disclose any business or interest which may give rise to a reasonable apprehension of conflict. A Member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office. This does not apply to a gift of personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.*

- *Members shall not use or disclose any information gained in the execution of his/her office that is not available to the general public for any purpose other than his/her official duties.*

- *Members shall not use influence of office for any purpose other than his/her official duties.*

- *Members shall not use the services or resources of civic employees in any private or personal business or for his/her re-election during hours in which these employees are in the paid employment of the City.*

- *Members shall respect the legislative and administrative regulations governing the decision-making mechanisms of the City.*

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

PRINCIPLE GUIDELINES

CODE OF CONDUCT OF THE COUNCIL OF THE CITY OF WINNIPEG

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS shall not engage in any activity, financial or otherwise, which is incompatible with the proper discharge of his/her official duties in the public interest.

The principle whereby Members must avoid placing themselves in a conflict of interest is the basis for all the other codes. All other codes can easily be said to be specific applications or variants of this base principle.

This principle goes beyond the legal requirements and exceeds the interpretation of the law. It affects the manner in which the general public perceives the actions of their elected representatives.

Members must avoid knowingly placing themselves in a situation that may result in a conflict between, on the one hand, their personal interest and on the other, the duties of their office.

A situation where a person may find himself/herself in a conflict of interest is a situation where he/she may have to choose between his/her own interest and that of the City or a municipal agency. The code prohibits not only the fact of choosing his/her interest over that of the City or one of the City's agencies, but more importantly, the code prohibits the Member from placing himself/herself in a situation where he/she may have to choose between the two.

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS must disclose any business or interest which may give rise to a reasonable apprehension of conflict. A Member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office. This does not apply to a gift of personal benefit that is received as an incident of the protocol or social obligation that normally accompany the responsibilities of office.

Members must refrain from having, either directly or indirectly, an interest in a contract or acting as an agent with the City of Winnipeg Council, a Committee of Council or any agency, board or commission of the City of Winnipeg.

The purpose of this principle is to avoid creating or maintaining ties between the City, any agencies, boards or commissions of the City of Winnipeg and Council Members, management staff or persons representing the City of Winnipeg.

This principle exists to prevent administrators from being placed in situations where their decisions may be influenced by a Member of Council.

This code may be said to be accessory to the legislation governing Conflict of Interest. Its purpose is to introduce a mechanism for making public certain facts in the carrying out of their duties and in the organization of their personal affairs, so that the public is able to ascertain that they are performing their tasks with integrity, objectivity and impartiality.

Acceptance of Gifts

A member shall not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office. This does not apply to a gift of personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

Where a gift or personal benefit exceeds $200.00 in value, or where the total value received directly or indirectly from one source in any twelve month period exceeds $200.00, the member shall immediately file with the City Clerk a statement indicating the nature of the gift(s) or benefit(s), the source and the circumstances under which the gift was given and accepted.

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS shall not use or disclose any information gained in the execution of his/her office that is not available to the general public for any purpose other than his/her official duties.

Members often become aware of information that is necessary or useful when making decisions in the general interest of the City. Some of this information is confidential in nature, other information is personal, while still other information is public in nature.

This information or details which come to the attention of members does not belong to them. It belongs to the City.

Members shall not divulge any information or details to the attention of the general public or to that of any individual, that is not public information. Nor shall they take advantage thereof for their personal or anyone else's interest or gain or avoidance of loss.

The purpose of this code is to ensure that the information or details brought to the attention of Members while they are working on behalf of the City continue to be used solely to this end and not divulged to the public.

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS shall not use influence of office for any purpose other than his/her official duties.

Members must refrain from participating in a decision or an action or from seeking to influence a decision or action if it may result in a conflict between their personal interest and the interest of the City.

When Members attend a meeting where consideration will be given to an issue in which they themselves have a stake, they must disclose the general nature of this interest before deliberations begin on the issue, refrain from participating in such deliberations or from voting on the issue and leave the meeting after having disclosed their interest, for the entire duration of the deliberations and the vote on the issue.

Members must refrain from soliciting, accepting or receiving from anyone a benefit for themselves in exchange for taking a position, making an intervention or offering a service.

The purpose of this code is to ensure that the steps taken and the decisions made by Members will be solely in the interest of the City and not in consideration or in expectation of a benefit.

There is no need to stress the fact that it is the public interest that must motivate steps taken and decisions made by Members and not their specific interest in receiving any benefit whatsoever in return for their action. Even if the step taken or the decision made is not really or solely motivated by the receiving or expecting of a benefit, Members must refrain from soliciting, accepting or receiving such benefits.

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS shall not use the services or resources of civic employees in any private or personal business or for his/her re-election during hours in which these employees are in the paid employment of the City.

Members shall not use or allow the use of, for purposes other than those for which they are intended, resources, property or services of the City or civic employees, or from using the authority of their office for their own interest.

The purpose of this rule is to ensure that the resources, property and services of the City serve only the interests for which they were acquired or implemented, and not the interests of individuals (ie. Council Members).

Council Members, whether as a group or individually, enjoy substantial moral or real authority related to the administration and management of the human and material resources of the City.

This authority must be exercised in the general interest of the City and not in the personal interest of the elected representatives.

This duty to exercise authority in the general interest of the City means that Members have the obligation to ensure that the resources, property and services of the City and the civic employees are only used for the purposes for which they are intended.

Appendix "A" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994 (continued)

MEMBERS shall respect the legislative and administrative regulations governing the decision-making mechanisms of the City.

This rule reiterates basic premises whereby all Members are equal and all must abide by the Rules of Council.

By incorporating respect as the foundation, Council adopted the Procedure By-law for the elected Members to govern themselves, then each Member acknowledges and respects the equal rights of all Members.

1079 - Appendix "B" referred to in Clause 1 of the Report of the Secretariat Committee dated September 19, 1994

CITY OF WINNIPEG ACT	
PROPOSED CHANGES	**RATIONALE**
That the City be given legislative authority to establish, by by-law, more stringent and additional standards of conduct with respect to the duties of a councillor than those set forth in The Municipal Conflict of Interest Act and to impose penalties for the breach of such standards.	To strengthen the integrity and to enhance public trust in civic government.
By adding the following wording to Section 68(1) {the jurisdiction of the Ombudsman} "where referred by Council, <u>or a Committee designated by Council</u>, any allegation that a councillor has contravened The Municipal Conflict of Interest Act or any by-law or resolution of Council establishing standards of conduct or ethics for councillors."	The City Ombudsman is the appropriate office to investigate complaints of improper conduct by Councillors.