Minute No. 236
Report – Secretariat Committee – December 15, 2008

Item No. 1 **Accountability Commissioner**
eFile GL-5.4

COUNCIL DECISION:

Council adopted that the recommendation of the Secretariat Committee that the October 22, 2008 Council Motion be filed, but did not concur in the recommendation to request that the Chief Administrative Officer explore creating a whistle blower hot line for employees to report issues to the City Auditor's Office.

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DECISION MAKING HISTORY:

Moved by Councillor Lazarenko,

That the recommendation of the Secretariat Committee, that the October 22, 2008 Council Motion be filed and that the Chief Administrative Officer be requested to explore creating a whistle blower hot line for employees to report issues to the City Auditor's Office, be adopted.

Moved by Councillor Steeves,

That the item be referred back to the Secretariat Committee for further consideration.

With the concurrence of Council, Councillor Steeves withdrew his motion.

The Speaker advised that, at the request of Councillor O'Shaughnessy, the recommendations would be considered separately.

The motion for the adoption of the first recommendation regarding the filing of the item was put and declared carried.

Councillors Fielding and Thomas asked to be recorded as having voted against the item, in accordance with Rule 47.7 of the Procedure By-law.

The motion for the adoption of the second recommendation regarding a whistle blower hotline was put and declared lost.

Councillor Fielding asked to be recorded as having voted in favour of the item, in accordance with Rule 47.7 of the Procedure By-law.

SECRETARIAT COMMITTEE RECOMMENDATION:

On January 19, 2009, the Secretariat Committee recommended that the October 22, 2008 Council Motion pertaining to a review all existing measures in place to ensure accountability, transparency, and integrity including all existing legislation and further investigate opportunities to strengthen accountability at City Hall by:

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DECISION MAKING HISTORY (continued):

SECRETARIAT COMMITTEE RECOMMENDATION (continued):

A. Establishing an Accountability Commissioner that oversees all city employees not just elected officials;

B. Creating an enhanced expense account monitoring reporting system for elected officials.

C. Enact whistle blower protection that could include a dedicated hotline that would include protection to city staff who report unethical or illegal activity;

D. Strengthen consequences and accountability measures for not meeting any of the criteria and terms established in all of the existing legislation;

be filed and that the Chief Administrative Officer be requested to explore creating a whistle blower hot line for employees to report issues to the City Auditor's Office; and submits the matter to Council.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 29, 2008, the Executive Policy Committee referred the October 22, 2008 Council Motion to the Secretariat Committee.

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DECISION MAKING HISTORY (continued):

COUNCIL:

On October 22, 2008, Council referred the following motion to the Secretariat Committee, via the Executive Policy Committee, for report back within 120 days:

Moved by Councillor Steeves,
Seconded by Councillor Fielding,

WHEREAS all Members of Council under the "The City of Winnipeg Charter" must sign a "Declaration of Office" that indicates they will truly, faithfully, and impartially, to the best of their knowledge and ability, execute the office to which they have been elected and not have 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;

AND WHEREAS "The Municipal Council Conflict of Interest Act" requires that when members of a municipal council or their dependents have a direct or indirect pecuniary interest in a matter that comes before Council or a Council committee, they must disclose it, withdraw from the meeting and refrain from attempting to influence the matter;

AND WHEREAS "The Municipal Council Conflict of Interest Act" takes considerable effort to set out what constitutes a direct or indirect pecuniary interest and a violation of the Act can result in forfeiture of the councillor's seat;

AND WHEREAS all Members of Council are obligated to provide a "Statement of Assets and Interests" under "The Municipal Council Conflict of Interest Act";

AND WHEREAS a member of the electorate or, upon instructions from Council, the City Clerk may apply to the Court of Queen's Bench for a declaration that the member of council has violated this Act;

AND WHEREAS "The City of Winnipeg Charter", declares the City Auditor responsible for determining whether "operations of the city are carried on, and money is expended, with due regard for economy and efficiency" and whether "satisfactory procedures have been established to measure, and report to council on the achievement of, economy and efficiency in the conduct of operations of the city and each affiliated body";

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DECISION MAKING HISTORY (continued):

COUNCIL (continued):

AND WHEREAS the Provincial Ombudsman has authority to investigate "any decision or recommendation made, including any recommendation made to a council, or any act done or omitted, relating to a matter of administration in or by any municipality or by any officer or employee of a municipality, whereby any person is or may be aggrieved";

AND WHEREAS the "Freedom of Information and Protection of Privacy Act" deals with what government information is required to be released to the public and the protection of personal information from being publicly released;

AND WHEREAS City Council adopted a Code of Conduct in September of 1994 that established Principle Guidelines that required:

- 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, 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 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;
- and Members shall respect the legislative and administrative regulations governing the decision-making mechanisms of the City;

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DECISION MAKING HISTORY (continued):

COUNCIL (continued):

AND WHEREAS the Province of Manitoba through the Premier has indicated in the media that "the bottom line is there is a Municipal Conflict of Interest law in Manitoba. It applies to the City of Winnipeg. It is a law that provides for disclosure for any elected official and the provision for withdrawing from any decision making. If anybody feels that law has been offended in any way, there are the remedies in the law. There is a public debate going on at City Hall and that's where it belongs. The bottom line is there is a law. And the law applies to every councillor in Manitoba, it applies to every Mayor in Manitoba, and it doesn't depend upon the debate of the day. It depends upon an issue where people fail to disclose or fail to withdraw from the decision making";

AND WHEREAS the Secretariat Committee's functions have been established in the Organizational By-law to include among its purposes:

- To resolve non political issues between Councillors.
- To resolve difficulties between Councillors and administration.
- To consider and resolve all other issues as referred to it by Council, Committees or member(s) of Council;

THEREFORE BE IT RESOLVED:

1. That the Secretariat Committee review all existing measures in place to ensure accountability, transparency, and integrity including all existing legislation and further investigate opportunities to strengthen accountability at City Hall by:

    A. Establishing an Accountability Commissioner that oversees all city employees not just elected officials;

    B. Creating an enhanced expense account monitoring reporting system for elected officials.

    C. Enact whistle blower protection that could include a dedicated hotline that would include protection to city staff who report unethical or illegal activity;

    D. Strengthen consequences and accountability measures for not meeting any of the criteria and terms established in all of the existing legislation.