Minute No. 609
Report – Governance Committee of Council – September 19, 2011

Item No. 1 Review of Winnipeg's Elected Officials' Compensation - Michael Werier Report

COUNCIL DECISION:

Council concurred in the recommendation of the Governance Committee of Council and adopted the following:

1. That the recommendations of the Werier Report be approved as follows:

   A. That the role of Elected Official be considered full-time and be the primary role of those occupying the position.

   B. The Councillors Compensation By-law No. 5850/92, be amended to replace the word "indemnity" with the word "salary" where applicable.

   C. That Section 4 of By-law 5850/92, and any other related legislation, dealing with 1/3 of indemnities received by Elected Officials being for expenses (effectively making 1/3 of their salary being tax-free) be eliminated and that the salaries be grossed up accordingly so that take home pay remains the same.

   D. That pensions for Elected Officials be based on the new salaries to be provided.

   E. That Elected Official salaries continue to be adjusted annually in accordance with existing legislation, starting on January 1, 2012.

   F. That a severance package of 3 weeks salary for each year of service as an Elected Official, up to a maximum of 6 months, be provided to Elected Officials at the end of their service.

2. That a review of the Elected Officials Compensation be conducted after every eight years.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

Moved by Councillor Nordman,

That the recommendation of the Governance Committee of Council be adopted.

Moved by His Worship Mayor Katz,
Seconded by Councillor Fielding,

WHEREAS the Governance Committee of Council on April 19, 2011, directed that outside expert opinion be engaged to report on the structure of compensation as part of a Review of Winnipeg's Elected Officials' Compensation ('the report");

AND WHEREAS the report was received and approved by Governance Committee on September 19, 2011;

AND WHEREAS the report gives detail on compensation structures in other jurisdictions and recommends a change to fully taxable pay for Winnipeg Elected Officials and a severance program for exiting Elected Officials;

AND WHEREAS the report does not give details on the overall costs of this compensation structure change, and does not take into account the pension implications of these changes;

AND WHEREAS the Corporate Finance Department of the Winnipeg Public Service has not had the opportunity to review the financial implications of the report and the overall costs to both Elected Officials and to the City of Winnipeg;

AND WHEREAS Council needs to be fully informed of all financial implications before it is able to make decisions on this issue;

THEREFORE BE IT RESOLVED THAT Council recommends that Item 1 of the Report of the Governance Committee dated September 19, 2011 be referred back and that the Winnipeg Public Service be directed to report back to Council within 60 days on the financial implications of the report.

The motion to refer was put.

Councillor Gerbasi called for the yeas and nays as follows:

Report – Governance Committee of Council – September 19, 2011

DECISION MAKING HISTORY (continued):

Yea: His Worship Mayor Katz, Councillors Fielding, Havixbeck, and Smith. 4

Nay: Councillors Browaty, Eadie, Gerbasi, Pagtakhan, Sharma, Steen, Swandel, Vandal, Wyatt and Nordman. 10

and the motion to refer was declared lost.

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

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

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2011, due to a tie vote, the Executive Policy Committee submitted the matter to Council without recommendation.

COMMITTEE RECOMMENDATION:

On September 19, 2011, the Governance Committee of Council passed the following motion, namely:

WHEREAS on April 18, 2011, the Governance Committee of Council directed the City Clerk, with the assistance of the civic administration as necessary, to engage and work with an independent third party consultant to undertake a review of Winnipeg's Elected Officials compensation, with specific focus on the tax exempt question, and bring a report to Council through the Governance Committee of Council;

AND WHEREAS the Michael D. Werier was engaged to undertake the review and has now delivered his report;

THEREFORE BE IT RESOLVED THAT the recommendations of the Werier Report be approved as follows:

1. That the role of Elected Official be considered full-time and be the primary role of those occupying the position;

2. The Councillors Compensation By-law No. 5850/92, be amended to replace the word "indemnity" with the word "salary" where applicable;

Report – Governance Committee of Council – September 19, 2011

DECISION MAKING HISTORY (continued):

COMMITTEE RECOMMENDATION (continued):

3. That Section 4 of By-law 5850/92, and any other related legislation, dealing with 1/3 of indemnities received by Elected Officials being for expenses (effectively making 1/3 of their salary being tax-free) be eliminated and that the salaries be grossed up accordingly so that take home pay remains the same;

4. That pensions for Elected Officials be based on the new salaries to be provided;

5. That Elected Official salaries continue to be adjusted annually in accordance with existing legislation, starting on January 1, 2012;

6. That a severance package of 3 weeks salary for each year of service as an Elected Official, up to a maximum of 6 months, be provided to Elected Officials at the end of their service;

AND BE IT FURTHER RESOLVED THAT a review of the Elected Officials Compensation be conducted after every eight years.

On April 18, 2011, the Governance Committee of Council directed the City Clerk, with the assistance of the civic administration as necessary, to engage and work with an independent third party consultant to undertake a review of Winnipeg's Elected Officials compensation, with specific focus on the tax exempt question, and bring a report to Council through the Governance Committee of Council.

Review of Winnipeg's Elected Officials' Compensation

Michael D. Werier

September 6, 2011

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Mandate of Consultant

The Governance Committee of the Winnipeg's City Council passed a resolution that the City Clerk, with the assistance of the civic administration as necessary, be directed to engage and work with an independent third party consultant to undertake a review of Winnipeg's elected officials' compensation, with specific focus on the tax exempt question, and bring a report to Council through the Governance Committee of Council.

The City engaged Michael D. Werier to be the independent third party consultant. This review is his report.

History of Reviews of Compensation of City Councillors

It is useful to trace the history of City of Winnipeg compensation for elected officials and the formal reviews that have been undertaken.

It is important to bear in mind, however, that the City has changed over the years and so has the role of City Councillors. The City has grown, council size has been reduced, and the City faces a myriad of issues.

For the purposes of this report, I have looked at approximately the last forty (40) years.

The January 1972 by-law provided that each member of council be paid an annual indemnity of $5,700, one-third (1/3) of which was to be an expense which was tax-free. This by-law set out that Council could vary that indemnity from time to time.

In August 1972, Council passed a by-law providing additional indemnities to certain members of Council serving as Chairs or members of committees.

In 1975, Council increased the salary levels and provided for cost of living

increases based on a formula set out in the by-law.

In 1979, salaries were increased by six percent (6.0%) for that year and were to be increased based on a formula set out in the by-law.

In 1982, City Council passed a resolution appointing Mr. Justice Gordon Hall of the Manitoba Court of Appeal to review indemnities, allowances, pensions and other benefits paid to Members of Council.

The Provincial Government signed an Order-in-Council which authorized Mr. Justice Hall to act as an adjudicator as a commission of inquiry.

Mr. Justice Hall's Report (the "Hall Report") was the first comprehensive review of Mayor/Councillors' compensation in the modern era of City Hall. As a matter of interest, in February 1980, he issued a Report and Recommendations on salaries, indemnities, allowances, and pensions for the Manitoba Legislature. At that time he recommended to the Province there be a permanent solution for the review of remuneration.

I agree with this recommendation and believe that the City should have a permanent review system. I will deal with this issue later on in this report.

The Hall Report contains a number of instructive comments on the test for determining compensation for elected officials, which identifies the need to attract qualified people to run for elected office, and the nature of the demands of being a City Councillor.

Excerpts from the Hall Report on the above issues are cited below:

> "A few general observations are in order. There is no magic formula or easy solution to resolve the issue of compensation payable to elected officials. The test is one of reasonableness. Opinions differ widely and public controversy usually ensues when changes are made or contemplated. As stated, the decision is one for Council to make, having regard to the information on hand. Hopefully this report will be a helpful contribution.
>
> ..... Elective office is not a life long pursuit, but neither should it be a brief

> encounter without the benefit of training or experience. It should be a desired goal of the many but not an attractive place for the few. Persons of varied background training and experience are to be encouraged to seek public office. A reasonable and up to date regime of compensation is necessary to attain these ends.
>
> City government, like other levels of government, is massive, complex and pervasive. Informed debate and decision is the order of the day. The resolution of conflicting claims and interests is not an easy task, nor is the supervision of the public service, including fiscal management and control. An added dimension to local government is relationships with both the provincial and federal governments. In sum, elective office of the City of Winnipeg is a demanding and time consuming undertaking which requires a commensurate regime of compensation."

In arriving at his recommendations for the salaries of the Mayor and Committee Chairs, Mr. Justice Hall took guidance from the compensation paid to civil servants of the City of Winnipeg, elected officials of other Canadian cities and of the Government of Manitoba.

The Hall Report recommended significant increases in pay for City Councillors and also proposed that City Councillors have a pension plan.

Council rejected the recommendations for the proposed increase, but adopted an increase of six percent (6.0%) for 1982 and five percent (5.0%) thereafter; one-third (1/3) of the indemnities were to be deemed to be expenses.

Council also agreed to seek an amendment to *The City of Winnipeg Act* to allow for the establishment of a contributory pension plan for members of Council.

The next major review of City Councillors' compensation was in 1991. City Council appointed a Citizen's Committee to investigate and report on a Council Member's Compensation Package. The Committee was chaired by Mathew H. Jones and reported in November 1991 (the "Jones Report").

As a decision was pending on reducing Council from twenty-nine (29) to fifteen (15) members, the Committee made its recommendations on the basis of both scenarios. Ultimately Council was reduced to fifteen (15) Councillors.

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The Jones Report considered the following in arriving at its recommendations:

- The overall responsibilities of the Councillor. These responsibilities may be defined as responsibilities to the constituents who have elected him/her to represent them, responsibilities to the citizens of Winnipeg as a whole (certainly many of the decisions made by Councillors are done in the context of the interest of the City at large, as opposed to ward interests), responsibilities to the other City Councillors in conjunction with whom many decisions are made, and finally responsibilities to the Administrators charged with the day to day operations of the City.

- What we would like to see our City Councillors do in the future and how they should be remunerated. Considerable discussions took place about what past or existing City Councillors do. It was agreed that we are not evaluating specific City Councillors. This is a task for the electorate and in fact, the electorate registers this evaluation at election time, every three years. By and large the electorate votes in favour of a Councillor if they believe for whatever reasons and by whatever standards, the City Councillor is doing a good job. Our task as The Citizens' Committee is to express a sense of importance and relevance, between the expectation of the responsibilities of the City Councillors and the appropriate remuneration to attract and retain the most capable persons.

- What are the risks and stresses of the job. City Councillors may serve a single three year term, or may be elected over and over to represent their constituents. Certainly the task of campaigning every three years could of itself bring with it undue stress or risk, associated with the possibility of being voted out of office. The public's demands of accountability and most importantly accessibility to her/her City Councillor, makes the job a twenty-four hour a day job.

- A system which will attract career oriented City Councillors. As a City Councillor, the public would like to know that he/she thinks of himself/herself as a politician in the civic arena and that he/she would carry out the responsibilities with such knowledge and efficiency as would be expected from any person who was given a job to do.

The Jones Report recommended, among other things, that "it is the normal practice that politicians receive one-third of their remuneration as an expense allowance". The Jones Report recommended that their one-third (1/3) tax-free allowance be continued.

The Report also contained recommendations for across the board salary

increases (Mayor - $64,800 to $75,000, Councillor - $23,400 to $40,000) (assuming 15 Councillors), benefits be restricted to seventy percent (70%) of the average of the last five years of the Councillor's remuneration. City Council accepted the recommendations and passed a by-law incorporating to amend By-law 3553/83 which provided for compensation to members of Council.

The next major report which affected compensation was a Report of the City-Secretarial Committee which recommended establishing a revised pension benefits program for members of City Council.

This was approved on July 18, 2001 and made retroactive to January 1, 2001. Essential elements of the plan included a minimum retirement age of fifty-five (55) and a pension calculated by taking the member's years of service multiplied by two percent (2.0%) of the best five (5) year average earnings (taxable).

This report in 2011 is the third independent review of Councillors' compensation in the last thirty (30) years.

Review Process for this Report

Advertisements appeared in the Winnipeg Free Press and the Winnipeg Sun Winnipeggers asking Winnipeggers to submit their views on compensation paid to councillors in writing by July 31, 2011. Approximately twenty-five (25) written submissions were received from members of the public. One City Councillor provided his views in an interview and one in writing. A written brief was received from the Canadian Taxpayers Federation and a meeting was held with that organization.

In addition, the writer reviewed a wide range of reports on elected official compensation at both the provincial and city levels. Some of these reports are referenced in this report, including a seminal report prepared by Mr. Justice Green of Newfoundland (2007) dealing with compensation for members of the Newfoundland legislature.

Provincial reports dated 1993, 2004, 2005 and 2007 dealing with compensation and benefits for Members of the Manitoba Legislature were also taken into account. These reports were of great assistance in that they were an excellent source of economic information and contained analysis of the factors to be taken into account in assessing fair compensation for elected government officials.

I also had available and reviewed detailed financial information related to compensation paid to elected officials in all major cities across Canada as well as salaries paid to civil servants and employees of Crown Corporations.

Lastly, I was able to review data pertaining to the economic financial status of cities and provinces in Canada.

Principles to be used in Determining Compensation

The City of Winnipeg Act does not set out any specific criteria for determining levels of compensation for elected officials. Nor does *The Legislative Assembly Act* of the Province of Manitoba contain such criteria, although it establishes the position of an independent commissioner to determine compensation levels.

As stated earlier, the Hall Report in 1982 set out that a "reasonable and up to date regime of compensation is necessary". The Jones Report in 1991 stated that this "expressed succinctly the views of the Committee".

As I set out in my 2007 Report on Salaries, Allowances and Retirement Benefits for Members of the Manitoba Legislative Assembly, previous provincial commissioners have adopted a standard of fairness and reasonableness.

Commissioner Dr. Jerry Gray in his 2005 report on Provincial MLA salaries wrote:

> "The only valid and practical method in these situations is to (a) approach the problem through a system of multiple measurements - also know as benchmarks, and (b) make an informed and independent judgment based upon all of the benchmarks observed. Although no specific weight was

assigned to any factor, it should be noted that the decisions contained in this report are, in the final analysis, my judgment with regard to the primary criteria of *fairness*. There are many other factors that were considered in making the decisions (see Section 2.2), but the overriding objective was to achieve a situation that, in my view, moved toward fairness in pay for our elected legislators. Although all Manitobans would not likely agree to the specific definition of what is "fair", few - if any - would argue that our MLAs should not be compensated in a fair and equitable manner. Given the complexity of the issue, the appointment of a single, independent person to make an informed judgment regarding "fairness" is the most reasonable approach."

In approaching the issues dealing with the compensation of the Mayor and City Councillors, I have been guided by the principles of fairness and reasonableness. There is no scientific formula to apply in assessing what is fair and reasonable compensation. The best practice is to utilize objective criteria and comparators. These benchmarks provide a basis for analysis.

What are the appropriate benchmarks?

Dr. Jerry Gray in his 2005 report set out a number of factors which referred to MLAs, but are equally applicable to City Councillors. These included:

- Salary comparisons with the elected roles in other federal, provincial and municipal governments;
- The need to have compensation levels that make the MLA role attractive to highly qualified candidates;
- Unfairness in salaries often must be corrected over time;
- The need to have compensation levels that reflect the importance of the MLA role;
- The public sensitivity to how much the roles of elected officials should be paid;
- The unique requirements of the MLA role, including the lack of job security and the accountability processes;

- The increased cost of living since the last MLA pay increase;
- Comparable workloads of the various roles in the Legislative Assembly;
- General compensation principles, policies and practices in the private sector.

The Green Report dealing with Newfoundland MLAs' salaries set out the following factors which should be used in approaching the difficult task of arriving at a decision on fair compensation. They were:

- Compensation should be sufficiently high to have a reasonable prospect of attracting good, competent and qualified people from a wide variety of backgrounds, but not so high as to be *the* major inducement for seeking office;
- The level of compensation should enable the average MHA to raise a family and live in relative comfort, but not in luxury;
- The level of compensation should be sufficient to enable the MHA to act as an autonomous representative, not beholding to the executive branch of government, and free to concentrate time and attention to constituency issues and parliamentary duties;
- MHAs should not become wealthy or profit excessively as a result of their public service;
- Compensation for MHAs should not be seen by the public as being significantly out of step with general economic trends especially when other people in the province are suffering financial hardship;
- The level of compensation should recognize that the work is a full-time job and involves weekend and night work, long-distance travel, family separation and required attendance at public events and ceremonial occasions;
- Any increase in the level of compensation should be respectful of general economic conditions, the interest of taxpayers and the costs to the public treasury.

Other reviews and reports have articulated many of the same factors. All are useful and have been taken into account.

Certainly, comparisons with compensation levels of elected representatives in other Canadian cities is a factor and great weight should be placed on this factor. Also relevant are salary levels of elected officials at other levels, including the Manitoba Legislature. Salaries paid to the City's civil service should also be given consideration.

Weight should also be placed on the importance of the role of a City Councillor and the need to attract good candidates.

In the submissions received, some members of the public questioned the value of their elected officials and expressed concern that they are overpaid. Others argue that we will not attract qualified people to run for elected office unless we pay them fairly.

Tied into this point is the issue of whether the job of City Councillor is a full-time position. Based on submissions I received, the public's expectation is that these elected officials should serve full-time based on the present compensation package. Previous reviews have endorsed the concept of a full-time career oriented City Councillor.

At present, there is nothing legally preventing Councillors from holding jobs in addition to performing their duties as a Councillor. *The Provincial Municipal Council Conflict of Interest Act* requires that Councillors disclose any financial dealings that could potentially cause a conflict with their duties as a Councillor.

I am advised that in the past, some Councillors operated their own businesses on the side. At present, certain Councillors own businesses, but do not take an active part in management. Others undertake occasional part-time commitments.

This issue is controversial, but the prevailing view held by independent commissions and reviewers is that the job is a demanding one and it is essential to encourage people of high quality to run for office.

In my view, the job should be full-time. This is consistent with the public interest. I recommend enquiries be made with the Province to ascertain whether legislation could be passed to ensure this.

Economic Climate

The general state of the economy is a relevant factor to consider when determining appropriate compensation levels. As such, the compensation levels paid to City Councillors and Mayors in other jurisdictions must be looked at in the context of the economic conditions existing there.

Regard must be had to the general state of the economy in Winnipeg and Manitoba and their relative strength to other cities and provinces. There is a wide range in the compensation levels across the country based in part on the economic differences. As well, one must recognize that work loads vary depending on the locale and the issues faced by the community.

The general state of the Manitoba and Winnipeg economy has been the subject of commentary by numerous independent commissioners and committees reviewing compensation for various occupations.

It is widely recognized that certain costs of living are lower in Winnipeg than other parts of the country. One example is the cost of a new or existing home. Based on the 2010 home market values and rankings for 2010 sourced from The Canadian Real Estate Association Winnipeg ranked fourth lowest at $248,548.00 as compared to Edmonton $331,537.00, Calgary $416,055.00, Toronto $485,520.00, and Vancouver $831,555.00:

Utility costs are also lower than in many parts of Canada. The Consumer Price Index for 2010 placed Manitoba under the Canadian average. The average weekly earnings in Manitoba for 2010 place Manitoba sixth (6th) amongst the ten provinces, seventh (7th) for retail sales per capita, and fifth (5th) for capital investment per capita.

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Unemployment figures for 2010 place Winnipeg (5.7%) in the lower range for Canada based on Statistics Canada figures. Calgary was 6.8%, Edmonton 6.7%, Toronto 9.1%, and Vancouver 7.5%.

Overall, it is safe to state that Winnipeg and Manitoba sit within the mid-range of economic indicators as opposed to other cities and provinces.

Winnipeg and Manitoba have diverse economies which has allowed them to weather the recession, although manufacturers have been hit by the high Canadian dollar and the woes experienced by the United States economy.

Other cities such as Calgary and Saskatoon have benefited from the boom in commodity prices for oil, gas and potash.

There is no question Winnipeg and Manitoba face certain challenges in the next number of years. The Province of Manitoba is dealing with a deficit and will incur certain significant costs in dealing with the flood. Some economists are predicting the possibility of another recession which, if it occurs, will have some impact on this province.

Of particular note is the fact that MLA pay was frozen by The Budget Implementation and Tax Statutes Amendment Act, 2010 for two (2) years. In addition, the Premier and Ministers had a twenty (20%) percent cut imposed for up to four (4) years, dependent on economic conditions. The reduction did not apply to the Speaker or the Leader of the Opposition.

As well, one cannot discount the impact of the flood and the general fiscal state of the Province on the economy.

In spite of these concerns, it is important to note that there is a sense of renewed optimism in Winnipeg which speaks well for the future of the City.

The return of the Jets, the construction of a new stadium, the Canadian Human Rights Museum, the revitalization of parts of Downtown Winnipeg, the development of Assiniboine Park, the new airport, have all contributed to this overall

feeling of optimism.

In summary, Winnipeg should be viewed as being in the mid-range economically of Canadian cities of comparable size and complexity.

Accordingly, salary ranges for the City's elected officials should bear a relationship to comparable cities with comparable economies.

Indemnity

The current City of Winnipeg Councillors' Compensation By-law states that the Mayor and Councillors receive an *indemnity* for carrying out the responsibilities of Mayor and Councillor.

In addition, the Councillors receive an expense allowance of $73,948.00. It is detailed later on in this report.

As noted by the Green Report, the term "indemnity" reflected in part the notion that public service was the prerogative of the well to do who could afford to devote a percentage of their time to public service. Therefore, the notion of an indemnity was to reimburse for a loss of opportunity to earn income.

That concept of an indemnity is clearly no longer applicable. When a citizen decides to run for public office, such as City Council, it often means putting another career on hold. As noted in this report, most, if not all, Councillors work full-time. The concept of indemnifying a person for a loss has no relevance or application.

In addition, the use of the term indemnity is confusing to the public. As stated earlier, the system of compensation should be transparent and easy for the public to understand. It only adds to the confusion and lack of transparency generated by a non-taxable portion of the salary.

I therefore recommend that the Councillors' Compensation By-law be amended by replacing the word "indemnity" with the word "salary" where

applicable.

The One-Third Tax-Free Component

The Mayor and Council Members receive one-third (1/3) of their total indemnity as expenses incidental to the discharge of their duties.

The legal foundation for this tax treatment is found in 81(3) of *The Federal Income Tax Act* which stated:

> Municipal officers' expense allowance
>
> (3) Where a person who is
>
> (*a*) an elected officer of an incorporated municipality,
>
> (*b*) an officer of a municipal utilities board, commission or corporation or any other similar body, the incumbent of whose office as such an officer is elected by popular vote, or
>
> (*c*) a member of a public or separate school board or similar body governing a school district,
>
> has been paid by the municipal corporation or the body of which the person was such an officer or member (in this subsection referred to as the person's "employer") an amount as an allowance in a taxation year for expenses incident to the discharge of the person's duties as such an officer or member, the allowance shall not be included in computing the person's income for the year unless it exceeds 1/2 of the amount that was paid to the person in the year by the person's employer as salary or other remuneration as such an officer or member, in which event there shall be included in computing the person's income for the year only the amount by which the allowance exceeds 1/2 of the amount so paid to the person by way of salary or remuneration.

A number of reviews on elected officials' compensation have commented on the historical reasons for including a tax-free component as part of the compensation packages.

The London, Ontario 2010 Report on the Council Compensation Review Task

Force noted that historically the one-third (1/3) allowance was a tax exemption to defray out of pocket expenses incurred by council members.

The Green Report indicated that historically politicians' work requires them to expend money associated with political activity that would be hard to account for and therefore it was considered reasonable to allow a certain amount of non-accountable payments to be made to the politician without being taxed to defray expenses "incidental to the member's discharge of the member's duties".

The Jones Report in 1991 confirmed that this practice should be maintained because it was common practice.

In addition, Winnipeg and other cities still maintain a tax-free indemnity as a percentage of the compensation. Edmonton, Regina, Saskatoon and Montreal all have such a system in place.

As recently as 2006, an Independent Compensation Committee in Edmonton recommended that the tax-free component continue as "it is" an efficient approach to compensation mindful of tax legislation and the current system is to be the benefit of the Edmonton taxpayer.

There are a number of reasons however to eliminate this tax-free portion of the indemnity.

Firstly, this practice is no longer the norm. A number of jurisdictions, both Civic and Provincial, have eliminated it. The "best practice" in Canada is to have all income taxable.

Secondly, the historical basis for the practice has disappeared. City Councillors are reimbursed for expenses and have access to an expense allowance in the amount of $73,948.00 pursuant to the Councillor's Representation Allowance Policy. The non-taxable allowance is really employment income to the Mayor and Councillors and should be treated as such.

Thirdly, no other employees except certain elected officials receive an

automatic tax-free allowance. The practice is therefore regarded very negatively and with suspicion by members of the public. There is no need to prolong a practice which creates such negative feelings.

Fourthly, the use of a tax-free allowance as part of an overall compensation scheme makes it difficult to compare the true value of the total compensation with other elected officials across Canada and with other employees whether in the public or private sector.

This is not a transparent system and transparency builds the public's trust in our political system.

Therefore, I recommend that the Mayor's and Councillors' tax-free indemnity should be eliminated. The non-taxable allowance should be grossed up to equal the taxable income. In this way, the Mayor or Councillors will receive the same amount after tax as before.

The salary levels should be adjusted as follows:[1]

	2011 Annual Salary	Grossed Up Amount
Mayor		
CTA Taxable	$ 82,648.54	
CTF Non-Taxable	$ 41,261.74	
Total	$123,910.28	$157,148.54
Councillor		
CTA Taxable	$ 44,083.00	
CTF Non-Taxable	$ 22,008.22	
Total	$ 66,091.22	$ 78,983.00
Deputy Mayor, Speaker and Standing Committee Chairpersons		
CTA Taxable	$ 54,663.44	
CTF Non-Taxable	$ 27,290.38	
Total	$ 81,953.82	$ 99,933.00

[1] All grossed up figures cited in this report are a best approximation.

	2011 Annual Salary	Grossed Up Amount
Deputy Speaker		
CTA Taxable	$ 49,374.26	
CTF Non-Taxable	$ 24,650.08	
Total	$ 74,024.34	$ 89,174.26

This represents the amount of the existing indemnity plus a taxable amount equivalent to the after tax value of the existing non-taxable allowance.

This change would provide a benefit to the pensions of the City's elected officials. The total compensation will now be factored into calculating the amount of pension rather than the previous two-thirds (2/3) of the compensation as I believe that this is fair, reasonable and a warranted change.

Compensation for Mayor, Councillors, Committee Chairs and Speaker/Deputy Speaker

As recommended earlier in this report, it is my view that the tax-free component of compensation should be eliminated and the salaries be grossed up to reflect the same net compensation after tax.

The current salaries are set out in *The City of Winnipeg Councillors Compensation By-law*.

The current salaries are as follows. The second column contains the grossed up amount.

	2011 Annual Salary	Grossed Up Amount
Mayor		
CTA Taxable	$ 82,648.54	
CTF Non-Taxable	$ 41,261.74	
Total	$123,910.28	$157,148.54

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	2011 Annual Salary	Grossed Up Amount
Councillor		
CTA Taxable	$ 44,083.00	
CTF Non-Taxable	$ 22,008.22	
Total	$ 66,091.22	$ 78,983.00
Deputy Mayor, Speaker and Standing Committee Chairpersons		
CTA Taxable	$ 54,663.44	
CTF Non-Taxable	$ 27,290.38	
Total	$ 81,953.82	$ 99,933.00
Deputy Speaker		
CTA Taxable	$ 49,374.26	
CTF Non-Taxable	$ 24,650.08	
Total	$ 74,024.34	$ 89,174.26

The chart on the following page sets out the growth in the salaries since 2004 and reflects certain cost of living increases as set out in the by-law and has varied over time dependent on changes in average weekly earnings.

	2004 YEARLY 1.01479	2005 YEARLY 1.01514	2006 YEARLY 1.02393	2007 YEARLY 1.04157	2008 YEARLY 1.02106	2009 YEARLY 1.03114	2010 YEARLY 1.03988	2011 YEARLY 1.02639
Mayor								
CTA Taxable	67,934.10	68,962.66	70,612.88	73,548.28	75,097.10	77,435.54	80,523.56	82,648.54
CTF Non-Taxable	33,915.70	34,429.20	35,253.14	36,718.50	37,491.74	38,659.14	40,200.94	41,261.74
Total	**101,849.80**	**103,391.86**	**105,866.02**	**110,266.78**	**112,588.84**	**116,094.68**	**120,724.50**	**123,910.28**
Councillor								
CTA Taxable	36,234.64	36,783.24	37,663.34	39,229.06	40,055.34	41,302.56	42,949.66	44,083.00
CTF Non-Taxable	18,090.28	18,364.06	18,803.46	19,585.02	19,997.38	20,620.08	21,442.46	22,008.22
Total	**54,324.92**	**55,147.30**	**56,466.80**	**58,814.08**	**60,052.72**	**61,922.64**	**64,392.12**	**66,091.22**
Deputy Mayor, Speaker and Standing Committee Chairpersons								
CTA Taxable	44,931.12	45,611.28	46,702.76	48,644.18	49,668.58	51,215.32	53,257.88	54,663.44
CTF Non-Taxable	22,431.50	22,771.06	23,316.02	24,285.30	24,796.72	25,568.92	26,588.64	27,290.38
Total	**67,362.62**	**68,382.34**	**70,018.78**	**72,929.48**	**74,465.30**	**76,784.24**	**79,846.52**	**81,953.82**
Deputy Speaker								
CTA Taxable	40,583.40	41,197.78	42,183.70	43,937.40	44,862.74	46,259.72	48,104.68	49,374.26
CTF Non-Taxable	20,261.28	20,568.08	21,060.26	21,935.68	22,397.70	23,095.28	24,016.20	24,650.08
Total	**60,844.68**	**61,765.86**	**63,243.96**	**65,873.08**	**67,260.44**	**69,355.00**	**72,120.88**	**74,024.34**

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It is relevant to examine other comparable jurisdictions' compensation to assess the adequacy of the compensation in Winnipeg. A good starting point is MLA salaries. As stated earlier, MLA salaries are currently frozen for 2010/2011 and 2011/2012. Further, the Premier and Ministers had a twenty percent (20%) cut imposed for up to four (4) years depending on economic conditions. This did not apply to the Speaker and Leader of the Opposition.

The current salaries are as follows:

MLA	$ 85,564.00
Premier	$141,508.00
Cabinet Minister	$122,309.00
Speaker	$131,495.00

If the twenty percent (20%) reduction had not been imposed, the Premier's salary would be $152,696.00 exclusive of any cost of living increase, and a Cabinet Minister's salary would be $129,658.00 exclusive of any cost of living increase.

It is fair to say that most Winnipeggers and Manitobans would expect that there be a gap between the salary of the Premier and the Mayor and that of a MLA and a City Councillor. That is consistent with the pattern across Canada.

Certain jurisdictions base the salary level on a percentage of the salary for Cabinet Ministers in the province. For example, the Mayor's salary in Regina is seventy-five percent (75%) of a Cabinet Minister in the Saskatchewan legislature, and in Saskatoon, it is eight-five percent (85%).

With the cutbacks and salary freeze, this will no longer be the case.

I do not believe there should be a rollback of the Mayor's compensation or that of a Councillor. Presumably the gap between the Premier and the Mayor will be restored in time pending further review.

Another comparator, although not as helpful, are the salaries paid to other City employees. It is difficult to compare the job of a City Councillor or Mayor with that of certain civic employees. There is a wide range of salaries paid to City employees, and senior administrators earn well in excess of that earned by City Councillors. I repeat my earlier comments that the job of City Councillor and Mayor are important ones and it is necessary to pay a fair salary in order to attract qualified candidates.

Some cities in Ontario base their salary for elected officials by doing an analysis of comparator cities. In Toronto, the salary for the Mayor and Councillors sit at levels above the 75th percentile of salaries in the comparator group.

The best comparators are the salaries paid to Councillors and Mayors in comparable cities in Canada. In determining the identity of comparable cities, factors such as population, number of Councillors, state of the city and provincial economy, budget, and issues faced by the city must be taken into account. There is no one perfect comparable.

While certain provincial economies such as New Brunswick and Nova Scotia are somewhat similar to Manitoba, they lack cities with comparable populations and budget size. As well, recent economic indicators suggest Manitoba is performing slightly better than those provinces.

Cities within the range of the size of Winnipeg such as Edmonton and Calgary, have similar sized Councils, twelve (12) and fourteen (14), but the economics are more buoyant and salary levels are generally higher.

Ottawa is similar in size to Winnipeg, has a larger Council, twenty-three (23), but income levels are generally higher due to the higher cost of living.

Overall, one must have regard to all of the above information, the noted differences between cities, and the fact that Winnipeg generally falls within the mid-range.

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The chart below sets out the 2011 salaries paid to City Councillors and the Mayor in major cities across Canada:

	Mayor	Councillor
Winnipeg (grossed up)	$157,148.54	$ 78,983.00
Vancouver	$144,394.00	$ 63,609.00
Edmonton (grossed up)	$181,075.00	$ 97,499.00
Calgary	$191,700.00	$102,000.00
Saskatoon (grossed up)	$137,882.00	$ 60,405.52
Regina (grossed up)	$122,322.50	$ 39,300.84
Halifax	$144,962.03	$ 72,357.13
Ottawa	$165,454.38	$ 92,219.00
Toronto	$167,810.57	$ 99,620.00

A careful examination of the above salaries puts Winnipeg presently at an approximate mid-range of salaries across Canada.

While the salaries are lower than Edmonton and Calgary, they are higher than Saskatoon or Halifax. As mentioned earlier, these Councillors' salaries bear a reasonable relationship to salaries for MLAs.

A number of presentations from the public and one from the Canadian Taxpayer's Federation suggested that Councillors be paid based on a system which rewards performance, skills and outcome.

While this is a novel idea, I am unaware of any such system operating in any major cities in this country and I am not prepared to recommend such a system at this time. The prevailing view is that if the electorate is not happy with the performance of the Mayor or a Councillor, they will not vote for them.

I believe that the extra compensation paid to the Speaker, Deputy Speaker and Chairs should remain as is.

I have taken into consideration the compensation in other comparable cities and having regards to all of the relevant factors, I believe the present compensation levels are within a fair range and I would therefore recommend that no change be made to the quantum of the compensation for the Mayor, Chairs of Committees, Speaker, Deputy Speaker and Councillors (aside from the elimination of the tax-free component and the gross up of the salaries).

I believe that the changes to the pension entitlement based on the taxable income increase and the severance payment will make the overall compensation package more in line with other comparable jurisdictions and at a fair and reasonable level.

Pension

City Councillors receive a pension equivalent to that of other civil employees.

The difference in the benefits accruing to civic employees as opposed to Councillors is that employees will generally, but not always, have a greater length of service and therefore a much greater pension.

The issue of pension for elected officials has been the subject of much controversy in the past. It is now accepted that it is fair and reasonable that full time elected City Councillors should have a pension.

The Hall Report stated City Councillors are exposed to the same risks of retirement as civic employees and should be treated in like fashion for their pensions.

The Jones Report noted that most cities had defined pension plans and that the 7% contribution by Winnipeg Councillors was in the mid-range.

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The Jones Report recommended one change in that pension benefits be restricted to 70% of the Council's remuneration which was inclusive of any income earned (e.g. Mayor, Speaker, Standing Committee Chairpersons).

An example of the controversy over civic pension is the Manitoba legislature. In 1994, in the face of widespread dissatisfaction with the pension plan for MLAs, the plan was suspended and replaced with a joint contribution RRSP. A defined benefit plan was later reinstated 10 years later, but at a reduced annual rate (3% - 2%).

The pension plan for elected officials in Winnipeg has similarly had an up and down history.

Following is a chronology of the major events dealing with the evaluation of the pension plan:

November 3, 1982 – Council asks for change to COW Act to allow for pension plan.

August 17, 1983 – By-law 3553-83 adopted re: Council Members Pension Plan.

November 30, 1983 – Committee established to review Council Members Pension Plan by-law.

February 29, 1984 – By-law 3689/84 adopted to amend Councillor's Pension Plan by-law 3553/83.

February 12, 1992 – By-law 5820/92 adopted to amend Councillor's Pension Plan by-law 3553/83.

June 17, 1992 – By-law 6021/92 adopted to amend Councillor's Pension Plan by-law 3553/83 to terminate it as of November 2, 1992.

July 29, 1992 – Recommendation to establish a new pension plan before Council – lost 11 to 15.

November 22, 2000 – current Council Pension Plan concept adopted.

July 18, 2001 – By-law 7869/2001 adopted establishing current Council Pension Plan which became effective January 1, 2001.

Many of the pension plans in place for elected officials at the City level in

Canada are the same as that in place for civic employees.

Overall, I do not recommend any major changes to the pension plan.

However, earlier in this report, I have recommended an elimination of the tax-free component of salaries and that the income figures be grossed up.

In my view, the pensionable salary of the elected officials shall be the new salary (after elimination of the tax-free amount).

While this will result in a higher budgetary cost to the City, I believe the cost is worth it. It is both fair and reasonable for the City's elected officials to be treated in the same way as their employees and that their total income be taken into account in determining their pension.

Severance

At present, City Councillors who are defeated at the polls after having served a term or a number of terms do not receive any severance payment on their departure.

The severance payment is intended to provide for the transition of the defeated incumbent to private life and is usually based on the number of years of service, e.g. one (1) month for every year holding office.

Members of the Manitoba Legislature receive severance of one (1) month's salary for each year of service and it is prorated for part of each year. The minimum is three (3) months and the maximum is twelve (12) months.

Other provinces have comparable or more generous provisions. Calgary's elected officials receive two (2) weeks for every year of service up to a maximum of fifty-two (52) weeks of salary. Edmonton's elected officials receive three (3) weeks for each year of service up to a maximum of six (6) months. Toronto City Councillors receive one (1) month per year of consecutive service up to a maximum

of twelve (12) years, plus up to $3,500.00 for out placement, transition or retirement counselling.

I believe that it is appropriate to bring Winnipeg in line with other jurisdictions and eliminate the disparity with members of the legislature. A severance allowance will assist Councillors in transition as they do not receive employment insurance.

In the circumstances, I would recommend severance of three (3) weeks' salary for each year of consecutive service up to a maximum of six (6) months upon conclusion of their service. This would apply if they chose not to run or were defeated. The severance should not be paid to a Councillor who resigns or is removed by reason of a conviction for fraud or municipal corruption.

Expense Allowance

The City of Winnipeg has in place a Councillors' Representation Allowance ("CRA"). The Policy governing the CRA sets out that the funds are to be used by City of Winnipeg Councillors to pay for

- Furnishings, office equipment, materials and administrative services that are required for the functioning of their offices, and
- Business expenses that are incurred in order to execute their duties, communicate with their constituents, and represent and support their wards.

The amount of the CRA shall be as authorized by City Council from time to time.

The present allowance available for Councillors is $73,948.00. I have not reviewed this allowance as a separate review is being done.

Future Adjustment of Salaries

There is a question of what mechanism should be in place to adjust salaries

for cost-of-living increases. The present by-law sets out that the method of calculating increases:

> For the twelve (12) month period commencing January 1st, 1991 and for each twelve (12) month period thereafter there shall be paid to every member of Council, including the Mayor, in each period, an indemnity at the rate per annum that is obtained by multiplying the indemnity payable to each such member and Mayor for the twelve (12) month period immediately preceding the twelve (12) month period in respect of which the basic indemnity is to be determined, by the lesser of
>
> (a) the percentage that the Industrial Aggregate for the first adjustment year is of the Industrial Aggregate for the second adjustment year; and
>
> (b) one hundred and seven per centum (107%)
>
> For the purposes of section 5,
>
> (a) in relation to any twelve (12) month period in respect of which the increase is to be determined
>
> (i) the "first adjustment year" is the last twelve (12) month period preceding the commencement of the period in respect of which the increase is to be determined for which the Industrial Aggregate is available, and
>
> (ii) the "second adjustment year" is the twelve (12) month period immediately preceding the first adjustment year; and
>
> (b) the "Industrial Aggregate" for an adjustment year is the average weekly earnings (excluding overtime) for all employees in the Industrial Aggregate in Canada for that year as published by Statistics Canada under the authority of *The Statistics Act of Canada*.

I see no problem in continuing the process for cost of living increases. It exists in other jurisdictions and is a good way to reflect the economic conditions. However, in my view, an independent review committee should examine the compensation levels on a regular basis, at least every eight (8)

years. That review could determine and/or recommend whether there should be any adjustments taking into account all the relevant circumstances existing at that time.

Summary of Decisions

Principles to be used in Determining Compensation

In my view, the job should be full-time. This is consistent with the public interest. I recommend enquiries be made with the Province to ascertain whether legislation could be passed to ensure this.

Indemnity

I recommend that the Councillors' Compensation By-law be amended by replacing the word "indemnity" with the word "salary" where applicable.

The One-Third Tax-Free Component

I recommend that the Mayor's and Councillors' tax-free indemnity should be eliminated. The non-taxable allowance should be grossed up to equal the taxable income. In this way, the Mayor or Councillors will receive the same amount after tax as before.

The salary levels should be adjusted as follows:

	2011 Annual Salary	Grossed Up Amount
Mayor		
CTA Taxable	$ 82,648.54	
CTF Non-Taxable	$ 41,261.74	
Total	$123,910.28	$157,148.54

	2011 Annual Salary	Grossed Up Amount
Councillor		
CTA Taxable	$ 44,083.00	
CTF Non-Taxable	$ 22,008.22	
Total	$ 66,091.22	$ 78,983.00
Deputy Mayor, Speaker and Standing Committee Chairpersons		
CTA Taxable	$ 54,663.44	
CTF Non-Taxable	$ 27,290.38	
Total	$ 81,953.82	$ 99,933.00
Deputy Speaker		
CTA Taxable	$ 49,374.26	
CTF Non-Taxable	$ 24,650.08	
Total	$ 74,024.34	$ 89,174.26

This represents the amount of the existing indemnity plus a taxable amount equivalent to the after tax value of the existing non-taxable allowance.

This change would provide a benefit to the pensions of the City's elected officials. The total compensation will now be factored into calculating the amount of pension rather than the previous two-thirds (2/3) of the compensation as I believe that this is fair, reasonable and a warranted change.

Compensation for Mayor, Councillors, Committee Chairs and Speaker/Deputy Speaker

I believe that the extra compensation paid to the Speaker, Deputy Speaker and Chairs should remain as is.

I have taken into consideration the compensation in other comparable cities and having regards to all of the relevant factors, I believe the present compensation

levels are within a fair range and I would therefore recommend that no change be made to the quantum of the compensation for the Mayor, Chairs of Committees, Speaker, Deputy Speaker and Councillors (aside from the elimination of the tax-free component and the gross up of the salaries).

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Severance

I recommend severance of three (3) weeks' salary for each year of consecutive service up to a maximum of six (6) months upon conclusion of their service. This would apply if they chose not to run or were defeated. The severance should not be paid to a Councillor who resigns or is removed by reason of a conviction for fraud or municipal corruption.

Future Adjustment of Salaries

I see no problem in continuing the process for cost of living increases. It exists in other jurisdictions and is a good way to reflect the economic conditions. However, in my view, an independent review committee should examine the compensation levels on a regular basis, at least every eight (8) years. That review could determine and/or recommend whether there should be any adjustments taking into account all the relevant circumstances existing at that time.

DATED this 6th day of September, 2011.

Michael D. Werier
Consultant