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October 16, 2013

Chair and Members
Executive Policy Committee
The City of Winnipeg
510 Main Street
Winnipeg MB

Executive Policy Committee Agenda – October 16, 2013

Re: Report #1 – Establishment of City of Winnipeg Code of Conduct Committee and Disclosure Process

Two weeks ago I appeared before you and pointed out that this particular motion was initiated at Council on March 20, 2013, and subsequently the Winnipeg Public Service was asked to review it and report back to EPC within two months. In June, EPC extended the deadline for another two months. On September 18, EPC granted still another extension of 30 days, without any public explanation.

It is now seven months since the motion was presented at City Council, and still no report has been submitted and placed on EPC's agenda.

As I have said earlier, there appears to be a pattern of wholesale disregard for the decisions of this and other Council committees. When is EPC going to do something about the chronic failure of the Winnipeg Public Service to submit reports as instructed?

The existing City of Winnipeg Employee Code of Conduct was actually adopted by Council in 2001.

It requires that EPC create a "Code of Conduct Committee" of not less than three members of EPC. Once again, why won't you do at least that, **today**?

With the publication of the various management audits expected momentarily, starting with the New Fire Paramedic Stations Project Audit Report at 2:00 p.m. on Monday, October 21, the Code of Conduct Committee may well be required to investigate potential complaints and alleged contraventions of the Code, and to take remedial action **immediately**.

We still have no indication when the broader Real Estate Management Audit Report will be presented and made public. It was supposed to be available well before October. Is it also being shared now with the subjects of the audit first, like the Fire Paramedic Station Audit Report was?

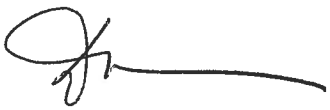
Will the authors of these two critical audit reports, from Ernst & Young LLP, appear before EPC in public, to present their findings and answer questions, starting on Monday?

Will former Fire and Paramedic Chief Reid Douglas be invited to appear and comment on the audit report involving him?

What measures have been taken to prevent the shredding or loss of relevant documents?

Who's in charge here anyway?

Thank you,



David M. Sanders, M.A., LL.B.

River Heights-Fort Garry

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001

CITY OF WINNIPEG EMPLOYEE CODE OF CONDUCT

PART A. DEFINITIONS

"**Chief Administrative Officer**" means the Chief Administrative Officer of the City, and includes his or her designate;

"**City**" means The City of Winnipeg;

"**Code of Conduct Committee**" means a committee of Council consisting of not less than 3 member of Executive Policy Committee;

"**department head**" means the head of an administrative department of the City as established by Th City Organization By-law, and includes an acting department head and, where applicable, th designate of a department head;

"**dependant**" means

(a) the spouse of an employee, including a person who is not married to the employee but whom the employee represents as his or her spouse, or

(b) any child, natural or adopted, of the employee regardless of age

"**employee**" means a person employed by the City, and includes a statutory officer, but does not include a Member of Council, or a person who is not employed by the City and works directly for an individual Member of Council;

"**person**" includes a firm, partnership, association or other body, whether incorporated or unincorporated;

"**statutory officer**" means an employee of the City who occupies a position created by *The City of Winnipeg Act* and has duties defined by that Act.

PART B. GENERAL PRINCIPLES

Employees must observe the highest standards of conduct in the performance of their duties, regardless of personal consideration. The public interest must be their primary concern. Their conduct in their official affairs must be above reproach at all times.

Employees must avoid situations in which their personal interest conflicts, or appears to conflict, with the interests of the City in their dealings with persons doing or seeking to do business with the City.

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001 (continued):

Employees must not engage in any conduct or activity that contravenes any law in force in Manitoba, including city by-laws, which might detrimentally affect the City's reputation, make the employee unable to properly perform his or her employment responsibilities, cause other employees to refuse or be reluctant to work with the employee, or otherwise inhibit the City's ability to efficiently manage and direct its operations.

PART C. PREAMBLE

1. This Code of Conduct is to operate in addition to other policies, regulations, and administrative directions for employees, as may be determined from time to time by Council or the Chief Administrative Officer.

2. Every provision of this Code is intended to be severable, and if any term or provision is determined to be illegal or invalid for any reason, that illegality or invalidity shall not affect the validity of the remainder of the Code.

3. Where, in relation to any employee, any provision of this Code is inconsistent with a collective bargaining agreement or employment contract which applies to that employee, the provision of the collective agreement or the employment contract prevails.

PART D. SPECIFIC PROVISIONS

Without limiting the generality of Part B:

1. Every employee, in the discharge of his or her duties and at all times, shall comply with *The Freedom of Information and Protection of Privacy Act.*

2. No employee shall engage in any outside employment, business, or undertaking for the employee's direct or indirect personal gain,

   (a) that will, or is likely to, interrupt or interfere with, the performance of his or her employment duties;

   (b) that requires or involves activities related to the outside employment, business, or undertaking, during any portion of the work day in which the employee is required to perform duties for the City;

   (c) in which the employee will gain, or appear to gain, a benefit as a result of his or her position with the City;

   (d) that will, or is likely to, influence, affect, or impair the manner in which the employee carries out his or her duties with the City, or his or her impartiality;

   (e) in such a manner, or in such a way, as to appear to be acting on behalf of the City, or appears to represent an opinion of the City.

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001 (continued):

3. Where an employee performs work in the course of any outside employment, business, or undertaking for his or her direct or indirect personal gain, and that work requires inspection or approval by another city employee, the employee must report the factual circumstances of that work, and the need for an inspection or approval, to his or her department head.

4. No employee shall accept any gift, favour, commission, reward, advantage or benefit of any kind from any person who is directly or indirectly involved in any business relationship whatsoever with the City, unless it is:

   (a) a nominal exchange of hospitality among persons doing business;

   (b) a token exchanged as a part of protocol; or

   (c) a normal presentation made to persons participating in public functions.

   Where an employee, as a result of the performance of his or her duties, receives or becomes entitled to receive any monetary payment, good, or service, that is outside the limits set out in this section, the employee shall turn over the monetary payment, good or service to his or her department head for such civic or charitable purposes as the department head may determine.

5. No employee shall solicit gifts or prizes for any City related purpose, including departmental events or functions, having other than nominal value, unless pre-authorized by the department head.

6. No employee shall accept free travel or accommodation from any person with whom the City does, or may do business, unless such travel/accommodation is pre-authorized by the department head and is further to an existing contractual arrangement.

7. No employee shall take advantage of discounts/rebates on personal purchases from suppliers having a business relationship with the City, unless those suppliers offer similar discounts/ rebates to the general public, or the offer is made through a program which has been authorized by the Chief Administrative Officer.

8. No employee shall use, or request the use of, any City property, including surplus material, for personal convenience or profit, unless the property

   (a) is available for such use by the public generally and the employee is receiving no special preference in its use; or,

   (b) is made available to the employee as a matter of City policy or under the terms of his or her employment or appointment.

9. No employee shall use any information acquired as a result of his or her duties with the City for personal benefit unless the information is available to the public.

10. No employee shall grant any special consideration, treatment or advantage to any person in their dealings with the City.

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001 (continued):

11. No employee shall represent the City in dealings with any persons in which he or she has a direct or indirect pecuniary interest or with his or her dependants or relatives.

12. Unless pre-authorized by his or her department head, no employee shall represent any person in dealing with the City, nor appear before Council or any board, commission, or committee of the City on behalf of any person, except where the employee, or a dependant of the employee, has a direct interest in the person being represented, or such representation is a part of the employee's duties.

13. No employee shall actively campaign, or solicit funds, for a potential or declared candidate for elected office during any portion of the work day in which the employee is required to perform duties for the City or at the workplace.

PART E. ENFORCEMENT

1. Where an employee has reported that he or she is engaged in any outside employment, business, or undertaking that requires inspections or approvals by another employee, the department head may:

   (a) require any additional or alternative measures as may be deemed reasonable, be taken to ensure that the inspections or approvals are dealt with in a manner which is fair and impartial and shows no favouritism to the employee; or

   (b) where it is not reasonably possible for the department head to comply with subsection (a), take any of the remedial actions set out in section 7, or any other remedy or action that is just and appropriate in the circumstances.

2. Where an employee perceives that he or she is, or may potentially be, in a conflict with the principles set out in Part B, they shall disclose the conflict, or the potential conflict, in writing, along with the circumstances leading to the conflict, or potential conflict, to:

   (a) his or her department head, in the case of an employee;

   (b) the Chief Administrative Officer, in the case of a department head; or

   (c) the Clerk of the Executive Policy Committee, in the case of a statutory officer;

   and shall keep all such information current.

3. Any person who is of the opinion that an employee may have contravened this Code may file a complaint in writing with:

   (a) the employee's department head, where the employee is not a department head or statutory officer;

   (b) the Chief Administrative Officer, where the employee is a department head; or

   (c) the Clerk of the Executive Policy Committee, where the employee is a statutory officer.

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001 (continued):

Note: It is the expectation that any employee who is aware that another employee has contravened this code will file a complaint with the appropriate person noted above.

Where a complaint is filed in good faith, the department head or Chief Administrative Officer a: the case may be, or Executive Policy Committee where the employee is a statutory officer, shall ensure that the person filing the complaint is not subject to reprisal, threat of reprisal, or discipline as a result of filing the complaint.

4. The Clerk of the Executive Policy Committee shall, subject to any applicable prorogue period ensure any disclosure under clause 2(c), or any complaint filed under clause 3(c), is placed or the agenda of the Code of Conduct Committee, at a meeting not later than 10 days from the date of receiving the disclosure or complaint.

5. Where a disclosure of conflict or potential conflict is made under section 2, or a complaint is filed under section 3, the department head or Chief Administrative Officer as the case may be, c the Code of Conduct Committee where the employee is a statutory officer, may require the employee to take such steps to withdraw from participation in the matter in which the potential or alleged conflict arises as may be reasonable in the circumstances, until it has been determine if an actual conflict exists.

6. Where a disclosure or complaint is received:

   (a) the department head or the Chief Administrative Officer, as the case may be, or the Code of Conduct Committee where the employee is a statutory officer, shall

      (i) investigate the potential conflict,

      (ii) determine whether or not there is an actual conflict, and

      (iii) if an actual conflict is found, determine, in accordance with section 7, the appropriate remedial action to be taken;

   (b) the Code of Conduct Committee, may appoint, or retain, an employee or other individual to investigate, or assist in investigating, the potential conflict;

and, subject to section 9, any decision of the department head, Chief Administrative Officer, or Cod of Conduct Committee is final and binding.

7. Contraventions of this Code, including failure to disclose a conflict pursuant to this Code, ma result in one or more of the following remedial actions being taken:

   (a) requiring the employee to terminate the outside employment, business or undertaking, or transfer assets into a blind trust;

   (b) transferring the employee to another division or department;

   (c) accepting the resignation of the employee;

Appendix "A" referred to in Clause 7 of the Report of the Executive Policy Committee dated March 14, 2001 (continued):

(d) initiating disciplinary proceedings which may include dismissal except that where an employee is liable to disciplinary proceedings under this Code and some other City policy, rule or regulation for the same contravention, the City shall elect whether it will proceed under this Code or the other City policy, rule or regulation; or

(e) any other remedy or action that is just and appropriate in the circumstances.

8. Each contravention of this Code will be considered and dealt with on its own particular facts or circumstances.

9. Any remedial action taken pursuant to section 7 may be appealed:

(a) where an employee is employed pursuant to a collective bargaining agreement, pursuant to the grievance/arbitration provisions of that collective bargaining agreement; or,

(b) in the case of an employee who is not covered by a collective agreement, and who is not a statutory officer or a department head, to the Chief Administrative Officer or designate; or,

(c) in the case of a statutory officer or department head, to Executive Policy Committee.

PART F. ADMINISTRATION OF THE CODE

1. The Chief Administrative Officer is responsible for

(a) implementing and administering the Code of Conduct; and,

(b) ensuring all employees are made aware of, and comply with, the Code of Conduct.

November 14, 2000