REPORT OF THE INTEGRITY COMMISSIONER: RECOMMENDING AN INCREASE TO THE ANNUAL BUDGET FOR THE OFFICE OF THE INTEGRITY COMMISSIONER

REPORT NO. 4 – AUGUST 22, 2018

To: Members of Council for The City of Winnipeg

Executive Summary

The purpose of this report is to seek approval from Council for The City of Winnipeg ("Council") for the following recommendations:

1. That the annual budget for the Office of the Integrity Commissioner for the year 2018 be increased to $150,000.00; and

2. That in 2019 and future years, the annual budget for the Office of the Integrity Commissioner be set at $150,000.00.

Background

Council established the mandate and the annual budget for the Integrity Commissioner on December 9, 2015 when it concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Office of Integrity Commissioner be created, and the Winnipeg Public Service be directed to report back at the January, 2016 Council meeting with a proposed process for the engagement of an Integrity Commissioner, on a two-year renewable term, in accordance with all applicable City policies including, without limitation, the City's Materials Management policy.
2. That the mandate of the Integrity Commissioner, as detailed in this report (attached as Appendix C), be adopted and applicable to Members of Council only.
3. That a new draft Code of Conduct of the Council of the City of Winnipeg be developed by the Integrity Commissioner for consideration by Council, and that

such draft Code of Conduct for Council include, without limitation, sanctions and enforceability mechanisms.

4. That should a Lobbyist Registry be established the oversight of the registry be included in the Integrity Commissioner's mandate.

5. That an annual budget in the amount of $100,000 per year for ongoing operations of the Integrity Commissioner be referred to the 2016 Operating Budget process.

6. That the Winnipeg Public Service request the Province of Manitoba to amend The City of Winnipeg Charter Act to create an applicable section specifically on the mandate and role of an Integrity Commissioner, identify appropriate penalties should any relevant by-law, policy or Act be breached, and grant investigative powers to the Integrity Commissioner.

7. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.[1]

In creating the role of Integrity Commissioner Council set out the following mandate and duties for the role:

Mandate and Duties of Integrity Commissioner

1. Advisory:

   a. To provide written and oral advice to individual Members of Council on questions under the Code of Conduct, *The Municipal Council Conflict of Interest Act* and any other bylaws, policies, or Acts governing the behaviour of Council.

   b. To provide Council with specific and general opinions and advice on by-laws, policies, protocols or Acts regulating the conduct of Members of Council, and issues of compliance with those by-laws, policies, protocols or Acts.

2. Investigative:

   a. To Investigate complaints from members of the public, City staff or other Members of Council involving conflict or bylaw matters of Members of Council

   b. To conduct inquiries into a request made by Council, a Member of Council, or a member of the public. into whether a Member of Council has contravened any applicable by-law, policy, or Act and report to Council on its findings.

[1] Minute No. 44, Council Minutes – December 9, 2015

3. Educational:

   To publish an annual report on the work of the office of the Integrity Commissioner including examples in general terms of advice rendered and complaints received and disposed of.

4. Other Duties:

   Oversee the City's Lobbyist Registry, should one be established.

On February 22, 2017 Council appointed the writer to perform the role of Integrity Commissioner with an effective start date of April 1, 2017.

At the end of my first year in office, I submitted an Annual Report to Council which set out the activities I carried out that year.[2]

As the report outlined, it was a busy year and one which produced a number of significant changes to the ethics and accountability framework in which the Members of Council perform their duties of office and serve the public.

This new framework included not only the appointment of an Integrity Commissioner but also the approval of a new Code of Conduct for the Members of Council and the creation of a Voluntary Lobbyist Registry which the Integrity Commissioner is charged with overseeing.

In the Annual Report I submitted, under the heading "Financial Statement", I set out that the annual budget of $100,000.00 which Council established covers all of the operating costs pertaining to the Integrity Commissioner's services including legal fees, disbursements and administrative costs. I then explained that due to the amount of work that was required in order to implement the mandate that Council gave the Integrity Commissioner's role, it was necessary to seek approval for an over-expenditure in the Integrity Commissioner's first year of operation.

[2] Annual Report of the Integrity Commissioner dated April 19, 2018

Such approval was obtained through the Clerk's Office and with the approval of the City's Chief Financial Officer and allowed for a one-time administrative increase to the budget in the amount of $33,866.45 for 2017.

I was advised that this administrative process was possible as there were surplus funds available in the City Clerk's 2017 Operating Budget, which were able to be redirected with the approval of the CFO. There was no need, therefore, to seek approval from Council for the extra funds that were necessary to support the Integrity Commissioner's work in that year.

This second year of operation has been no less busy and I expect that the cost for the amount of work will again exceed the budget which Council first established for the Integrity Commissioner's office in 2015.

As I have said on many occasions, the ability of Members of Council to have access to an Integrity Commissioner who can provide advice about their ethical obligations as they perform their duties of office, is the most valuable service the Integrity Commissioner provides.

The volume of requests for advice that I have been receiving from Members of Council has steadily been increasing since I began this work and I anticipate and hope that that will continue.

The Integrity Commissioner's mandate to offer advice and guidance to Members of Council on a pro-active basis should also, hopefully, lessen the potential for complaints about violations of the Code and minimize the number of lengthy and often complicated investigations which may follow from such complaints.

It is important, therefore, that this office continue to be provided with sufficient funding to allow it to perform its advisory work in an effective manner.

This year continues to be a busy year for other reasons as well.

For example, since the Code was put into effect I have been working with Council to implement several amendments to the Code – some of which were at my initiation and some which were at the initiation of Council.

This year is also an election year and I have been working with the Members of Council to provide guidance in interpreting the Code provisions relating to election activity, to ensure they comply with their ethical obligations during the campaign period.

I have also prepared material to be included in the packages which will be provided to all candidates in order to educate them about the ethical obligations which will govern their activities should they be successful in their campaign.

Another significant development this year is the ability for the Integrity Commissioner to accept, investigate and report on complaints. Specific information about this work will ultimately be reported to Council in my 2018 Annual Report and/or in reports which may be presented to Council directly.

Consistent with Council's initial mandate, I have also been working with the City's Legal Services Department to bring forward a report to Council recommending legislative amendments to *The City of Winnipeg Charter* which the City should request from the Province, These amendments will enhance the Integrity Commissioner's role and will give Council the authority to order sanctions of a pecuniary nature when a Member of Council is found to have breached the Code of Conduct.

Going forward, as requested by Council, I will also be drafting policies for Council's consideration pertaining to such items as fundraising and compensation for legal fees in certain situations where a Member is the subject of an investigation under the Code of Conduct.

Following the election on October 24, 2018, there will be new Members of Council and I will need to take time to educate them about the Code of Conduct and the role of the Integrity Commissioner.

As of the date of this report, the portion of the budget which remains is $19,716.83.

I respectfully recommend, therefore, that Council approve an increase to the 2018 budget for the Office of the Integrity Commissioner from $100,000 to $150,000. I am basing this request on my experience to date and my best estimate of what will be required to support the role to the end of December 2018.

In making this recommendation, I am not seeking an increase of the hourly rate for legal fees, which Council approved when it first established the role and its budget in 2015.

Conclusion

From December 2015, when Council first approved the creation of the Office of Integrity Commissioner and established the budget for that Office, to August 2018, the Members of Council for The City of Winnipeg have taken significant steps to show they recognize that they hold office for the benefit of the public and that their conduct must adhere to the highest ethical standards.

The City of Winnipeg now has in place an ethics and accountability framework for its Members of Council which includes a strong Code of Conduct and an Integrity Commissioner whose mandate is to provide advice to the Members about their ethical obligations and to investigate and report to Council with recommendations when the Integrity Commissioner finds those ethical obligations have been breached. In taking these steps, the Members of Council have shown that they are committed to performing their duties of office in a manner that will promote public confidence and trust in the political process.

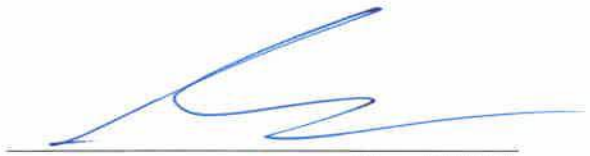
These steps have put The City of Winnipeg in a position which is consistent with other major cities across Canada and has made it a leader in the municipal landscape of the Province of Manitoba.

Now that the Office of the Integrity Commissioner has been in operation for a year and a half, it is clear that the initial budget which Council established in 2015 is not sufficient to support the Office in a manner which will fulfill the mandate Council gave it, on an ongoing basis.

I therefore respectfully recommend as follows:

1. That the annual budget for the Office of the Integrity Commissioner for the year 2018 be increased to $150,000.00; and

2. That in 2019 and future years, the annual budget for the Office of the Integrity Commissioner be set at $150,000.00.



Sherri Walsh

August 22, 2018