



**The City of Winnipeg
City Clerk's Department**

**Invitation for Expressions of Interest for an
Integrity Commissioner**

EOI # 454–2016

1.0 INTRODUCTION

The City of Winnipeg (City) invites Expressions of Interest (EOI) from individuals to act as the Integrity Commissioner for the Office of the Integrity Commissioner.

2.0 LOCATION

The Integrity Commissioner will provide independent services and will not be provided with a physical office at the City of Winnipeg. The City Clerk's Department, located in the Administration Building, Main Floor, 510 Main Street, will provide some support services and be the administrative and political liaison to the Office of the Integrity Commissioner as required.

3.0 BACKGROUND

On December 9, 2015, The City of Winnipeg Council adopted the recommendations in the report titled "Office of Integrity (Ethics) Commissioner". The recommendations adopted were:

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.

A full copy of the report is included in this Expression of Interest as Schedule 'A'.

4.0 DUTIES

The duties of the Integrity Commissioner will include the following:

4.1. Advisory:

- i) To provide written and oral advice to individual Members of Council on questions under the Code of Conduct, attached as Schedule 'B', *The Municipal Council Conflict of Interest Act* and any other by laws, policies, or Acts governing the behaviour of Council.
- ii) 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.

4.2. Investigative:

- i) To investigate complaints from a request made by Council, a Member of Council, a member of the public or City staff, into whether a Member of Council has contravened any applicable by-law, policy, or Act.
- ii) To conduct inquiries into a request, made by Council, a Member of Council, or a member of the public or City Staff, into whether a Member of Council has contravened any applicable by-law, policy, or Act and report to Council on its findings.

4.3. Educational:

- i) 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.

4.4. Other Duties:

- i) Develop a new Code of Conduct.
- ii) Oversee the City's Lobbyist Registry, should one be established.

5.0 FINANCIAL COMPENSATION

The Integrity Commissioner will be provided with a yearly retainer fee in the amount of \$25,000.00. As the position starts part way through 2016 the retainer

fee will be prorated for 2016. In addition to the retainer, the Integrity Commissioner will be paid an hourly fee for service, to a maximum of \$200.00 per hour.

The Applicant must provide the amount, in Canadian dollars, of their hourly fee for service.

6.0 DUE DILIGENCE

6.1. Non-Partisanship

The Applicant must acknowledge in their submission that they are not a member of any political party, federal or provincial, and have maintained a non-partisan role in their current and previous relations.

6.2. Impartiality

The Applicant must provide in their submission any relevant background information that shows impartiality.

6.3. Criminal Record Check

Applicants selected for an interview will be subject to a Criminal Record Check and shall provide the City with the relevant information to ensure its accuracy.

7.0 INSTRUCTIONS TO APPLICANT

7.1 Information to be supplied by Applicant

7.1.1 Background Information

- i) The name, address and telephone number(s) of the Applicant;
- ii) A brief description of the Applicant's background.

7.1.2 Experience

- i) A brief description of the Applicant's knowledge, experience or awareness of the applicable legislation and by-laws governing Municipal Council Conflict of Interest and their ability to interpret that legislation or by-law;
- ii) A description of key staff/team member roles to be involved, their associated professional qualifications, and prior work experience, if applicable.
- iii) A description of any similar experience or history on the

- subject matter.
- iv) A brief description of experience in relation to drafting and preparing official reports and documentation.
 - v) A brief description highlighting extensive communication skills.
 - vi) A brief description of knowledge on the practices and techniques in launching formal and informal investigations.
 - vii) Demonstrate ability and commitment to be neutral and impartial.
 - viii) Proven skills in working with minimal supervision and the ability to exercise discretion, sound judgement and problem-solve.
 - ix) Information requested in 6.1 and 6.2.
 - x) A description of any other information which the Applicant considers pertinent to the EOI.
 - xi) Provide reference contact(s) from previous work which was similar in scope or nature.

7.1.3 Hourly Fees for Service in accordance with 5.0 Fees

8.0 EOI Submission Instructions

8.1.1 Sealed EOI's

Expressions of Interest for an Integrity Commissioner (EOI #454–2016), should be addressed and can be delivered by mail, fax or in person to:

The City of Winnipeg
Corporate Finance Department
Materials Management Division
185 King Street, Main Floor
Winnipeg MB R3B 1J1

Fax. No. 204-949-1178

EOI's should be submitted by:

4:00 p.m., Winnipeg Time, on July 15, 2016

EOI submissions determined by the Selection Committee to have been received later than the EOI deadline may not be accepted and returned upon request.

The Contract Administrator or the Manager of Materials may extend the submission deadline by issuing an addendum at any time prior to the submission deadline.

EOI(s) will not be opened publicly.

The City may at any time prior to the submission deadline, issue addenda correcting errors, discrepancies or omissions in the subject Invitation for Expressions of Interest, or clarifying the meaning or intent of any provisions therein.

Addenda will be available on the Bid Opportunity webpage at the City of Winnipeg, Corporate Finance, Materials Management Division internet site at <http://www.Winnipeg.ca/matmgt/bidopp.asp>

The Applicant is responsible for ensuring that it has received all addenda and is advised to check the Materials Management Division internet site for addenda shortly before the submission deadline.

8.1.2 Evaluation

The City shall evaluate each EOI Submission on its own merit and potential cost to the City alone may not be the sole determining factor that the City considers in the evaluation of the EOI Submission.

Critical factors the City will consider in the evaluation process will include those listed in section 7.1.2 Experience.

8.1.3 Right to Reject/Negotiations

The City reserves the right to reject all or any EOI Submission as well as the right to negotiate with any/all Applicants responding to the EOI.

8.1.4 Confidentiality

Information provided to an Applicant by the City, or by an Applicant to the City, or acquired by any party by way of due diligence, further enquiries or through investigation, **is strictly confidential**. Such information shall not be used or disclosed in any way without the prior written authorization of the City or of the Applicant.

The Applicant, or the City, shall **not** make any statement of fact or opinion regarding any aspect of the EOI to the media or any member of the public without the prior written authorization of the City Clerk of the City Clerk's Department, or without the authorization of the Applicant.

The Applicant's ability to disclose an EOI submission, successful or otherwise, is at the sole discretion of the Council of the City of Winnipeg, or its' Designated Authority.

Prior to the Applicant conducting any due diligence or other work hereunder, the parties, their contractors, employees, agents or other persons privy to confidential information will enter into a Non-Disclosure and Confidentiality Agreement.

8.1.5 Contact Person

Destiny Watt, Senior Committee Clerk
City Clerk's Department
City of Winnipeg
Administration Building, Main Floor, 510 Main Street
Winnipeg, Manitoba
[dwatt@winnipeg.ca](mailto:d watt@winnipeg.ca)
Tel: 204-986-5971

8.1.6 Terms and Conditions

- i) A formal contract will follow prior to any Due Diligence being undertaken.
- ii) The term of the contract will be for a two-year period with an option for renewal up to 5 – 2 year terms.

Attachments:

- Schedule 'A' – Council Report dated December 9, 2015
- Schedule 'B' – Code of Conduct

SCHEDULE 'A'

Schedule 'A' – Council Report dated December 9, 2015

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Minute No. 44

Report – Executive Policy Committee – December 2, 2015

Item No. 6 Office of Integrity (Ethics) Commissioner

COUNCIL DECISION:

Council 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.

Report – Executive Policy Committee – December 2, 2015

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 2, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2015, the Executive Policy Committee granted an extension of time of 60 days for the Winnipeg Public Service to report back on the matter.

COUNCIL DECISION:

On June 17, 2015, Council adopted the following motion:

Moved by His Worship Mayor Bowman,

Seconded by Councillor Gerbasi,

WHEREAS on December 11, 2013 Council concurred in the recommendation of the Executive Policy Committee with respect to the creation of an Office of Ethics Commissioner (the “2013 Motion”);

AND WHEREAS the 2013 Motion also requested the Province of Manitoba to amend the City of Winnipeg Charter Act (the “Charter”) to provide the Ethics Commissioner with investigative powers to compel witnesses and evidence, which amendments have not as yet been made;

AND WHEREAS the 2013 Motion also provided that the Ethics Commissioner have jurisdiction over investigating complaints and recommending to Council sanctions with respect to members of the Public Service, and it is desirable to obtain further analysis of this issue from a labour relations perspective;

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Report – Executive Policy Committee – December 2, 2015

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

THEREFORE BE IT RESOLVED THAT the Public Service be requested to report back within 120 days to Executive Policy Committee with recommendations for a process and implementation plan to create an Office of Ethics Commissioner with the maximum authority under the existing Charter, which report shall include;

- (i) a review of best practices in other jurisdictions;
- (ii) human resource and labour relations implications;
- (iii) budgetary implications;
- (iv) legal implications; and
- (v) all other relevant considerations.

BE IT ALSO RESOLVED THAT the Governance Committee of Council work with the City Solicitor to review the existing Councillor Code of Conduct (the “Code”) to develop recommendations for Council consideration with respect to updating and amending the Code to ensure: (i) guidelines for ethical conduct are in line with best practices in other jurisdictions; and (ii) consequences for breaching the Code are clearly defined and articulated.

ADMINISTRATIVE REPORT

Title: Office of Integrity (Ethics) Commissioner

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
D. Watt	R. Kachur	M. Ruta	M. Jack COO

RECOMMENDATIONS

1. That Council create the Office of Integrity Commissioner, and direct the Public Service 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.

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REASON FOR THE REPORT

On June 17, 2015, Council adopted the following motion:

WHEREAS on December 11, 2013 Council concurred in the recommendation of the Executive Policy Committee with respect to the creation of an Office of Ethics Commissioner (the "2013 Motion");

AND WHEREAS the 2013 Motion also requested the Province of Manitoba to amend the City of Winnipeg Charter Act (the "Charter") to provide the Ethics Commissioner with investigative powers to compel witnesses and evidence, which amendments have not as yet been made;

AND WHEREAS the 2013 Motion also provided that the Ethics Commissioner have jurisdiction over investigating complaints and recommending to Council sanctions with respect to members of the Public Service, and it is desirable to obtain further analysis of this issue from a labour relations perspective;

THEREFORE BE IT RESOLVED THAT the Public Service be requested to report back within 120 days to Executive Policy Committee with recommendations for a process and implementation plan to create an Office of Ethics Commissioner with the maximum authority under the existing Charter, which report shall include;

- (i) a review of best practices in other jurisdictions;
- (ii) human resource and labour relations implications;
- (iii) budgetary implications;
- (iv) legal implications; and
- (v) all other relevant considerations.

BE IT ALSO RESOLVED THAT the Governance Committee of Council work with the City Solicitor to review the existing Councillor Code of Conduct (the "Code") to develop recommendations for Council consideration with respect to updating and amending the Code to ensure: (i) guidelines for ethical conduct are in line with best practices in other jurisdictions; and (ii) consequences for breaching the Code are clearly defined and articulated.

EXECUTIVE SUMMARY

- The cross jurisdictional review found that many municipalities who have implemented an Integrity Commissioner have adopted very similar mandates and roles.
- An Office of Integrity Commissioner be created, the Commissioner to be appointed by Council, for a minimum two-year renewable term.
- The Integrity Commissioner shall be responsible to provide an Advisory, Investigative and Education role to Members of Council, as outlined in this report, and report directly to Council.
- Should a Lobbyist Registry be created the Commissioner shall be responsible for oversight of the registry.
- That the City of Winnipeg request the Province of Manitoba to amend *The City of Winnipeg Charter Act* to create an applicable section specifying the mandate and role of

an Integrity Commissioner and identify appropriate penalties that the Integrity Commissioner may impose, should any relevant by-law, policy or Act be breached.

IMPLICATIONS OF THE RECOMMENDATIONS

By implementing an Integrity Commissioner, the City is providing a transparent, accessible and open process for Members of Council, members of Administration and members of the public, to report or receive information on a perceived conflict by a Member of Council and be ensured that an independent officer will have powers to investigate issues and report their findings to Council.

HISTORY/DISCUSSION

On February 18, 2009, Council requested the Province of Manitoba to review and amend existing legislation to create stronger Conflict of Interest rules and guidelines for the City of Winnipeg and Council through such measures as the establishment of a separate municipal office for the Conflict of Interest Commissioner or by expanding the role and responsibilities of the existing Commissioner.

On December 11, 2013, Council adopted the creation of an Office of Ethics Commissioner and requested the Province of Manitoba to amend the *City of Winnipeg Charter Act* to provide the Ethics Commissioner with investigative powers, and the ability for Council to Sanction Members of Council, Statutory Officers and Members of the Winnipeg Public Service, on recommendation of the Ethics Commissioner.

Subsequently the Province did not amend the Charter Act and advised that the City of Winnipeg has the authority to establish an Ethics Commissioner under the existing framework. The Public Service did not proceed with the creation of the Office as the intent of the office lacked the legislated powers that were desired.

On June 17, 2015, Council instructed the Winnipeg Public Service to create an Office of Ethics Commissioner, with the maximum authority under the existing Charter, and therefore this report is being considered.

On May 27, 2015, Council received as information the Audit Department's Report titled "Report on the Creation of a Lobbyist Registry". Within this report the Audit Department provided a number of recommendations on implementing a Lobbyist Registry and Registrar, some of which included the role of an Integrity Commissioner, which is detailed further in this report.

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It should be noted that previous Council decisions on this matter have cited an "Ethics" Commissioner, but after a cross jurisdictional review, it was found that all of the Ontario municipalities refer to this position as an Integrity Commissioner, as does the legislation which governs this role in Ontario; therefore we are proposing the same.

Best Practices in other Jurisdictions:

A review of best practices across jurisdictions in Canada who have appointed an Integrity Commissioner has been concluded and is attached as Appendix A.

The review found that some municipalities across Ontario have created an Integrity Commissioner Office, which is based on the Toronto model, first established in 2006, under the City of Toronto Act, 2006. The City of Calgary is currently in the early stages of appointing an Integrity Commissioner which is one of the only jurisdictions in Western Canada who have adopted this role.

Cities such as Ottawa, Vaughan, Windsor, Brampton and Mississauga have all appointed Integrity Commissioners which are legislated under the Ontario Municipal Act, 2001, attached as Appendix B.

There are many similarities among the municipalities who have appointed Integrity Commissioners. All Commissioners report to Council with an annual report summarizing their findings as well as reports to Council on investigations conducted; they provide advice to Members of Council in relation to the Code of Conduct and/or any other applicable bylaw; investigate complaints made by a Member of Council or the general public, as well as assist in the creation of / or amendments to current applicable policies or bylaws.

There are some differences amongst the municipalities such as the term of appointment, the budget for the office and additional duties of the Integrity Commissioner such as investigating city committees and boards (appointed by Council) and overseeing the Lobbyist Registry.

Lobbyist Registry

An investigation across other jurisdictions has indicated that only Toronto has a separate Lobbyist Registrar, which works very closely with the Integrity Commissioner's Office. Some municipalities do not have a Lobbyist Registry, some are in the midst of creating one, and Cities like Ottawa have their Lobbyist Registry included in the mandate of the Integrity Commissioner.

On May 27, 2015, Council received as information the Audit Department's Report titled "Report on the Creation of a Lobbyist Registry". Within this report the Audit Department provided a number of recommendations on implementing a Lobbyist Registry and Registrar. Notably, it was suggested that consideration should be given to combining the Lobbyist Registrar with the establishment of an Integrity Commissioner in order to create efficiencies and reduce total overall costs.

Additionally, on May 27, 2015, Council requested the Public Service to prepare a report outlining the required amendments to *The City of Winnipeg Charter Act* to create an enforceable lobbyist registry that allows for investigative and enforcement activities.

If no changes to the Charter are made, the creation of a voluntary lobbyist registry could be established under the existing legislation, but similar to the Integrity Commissioner under the existing Charter, there would be no legal enforcement should there be any breaches.

Should Council implement a Lobbyist Registry in the future, it is envisioned that the Integrity Commissioner would be mandated to oversee the Lobbyist Registry, similar to the model used by the City of Ottawa.

Mandate and Duties of Integrity Commissioner

After review of other jurisdictions best practices, it is envisioned that The Office of the Integrity Commissioner for the City of Winnipeg would have the following mandate:

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 by-laws, 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.

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.

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4. Other Duties:

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

The City Clerk's Department will retain the budget, if approved, and provide support services and administrative functions to the Office of the Integrity Commissioner as required.

It is important to note that the Integrity Commissioner will not be a City of Winnipeg employee but will be appointed on retainer, and will provide the service for a fee, on an as needed basis.

The Municipal Council Conflict of Interest Act

In 1987 the Province of Manitoba enacted *The Municipal Council Conflict of Interest Act*, legislation which serves all municipalities in the Province of Manitoba, including the City of Winnipeg. Many of the guidelines within the Code of Conduct of the Council of the City of Winnipeg were comprised from this Act.

It will be the role of the Integrity Commissioner to interpret, implement and respond to any Members of Council, members of the public, or City staff's questions concerning this Act.

Council Code of Conduct

On September 21, 1994, the City of Winnipeg established a Code of Conduct of the Council of the City of Winnipeg. This existing Code of Conduct will serve as the guiding principles for the Integrity Commissioner to utilize under its mandate.

On June 17, 2015, Council requested the Governance Committee of Council to work with the City Solicitor to review the existing Councillor Code of Conduct to develop recommendations for Council consideration with respect to upgrading and amending the Code to ensure guidelines are in line with best practices in other jurisdictions and that consequences for breaching the Code are clearly defined and articulated.

Once an Integrity Commissioner is hired, the Council Code of Conduct should be included in the mandate and a review of the existing Code should be undertaken, as well as a cross jurisdictional analysis and a new Council Code of Conduct be established. The Integrity Commissioner will work with Legal Services as required to bring forward any by-laws required to implement enforcement mechanisms for such new Council Code of Conduct.

Employee Code of Conduct

On March 14, 2001, Council adopted the City of Winnipeg Employee Code of Conduct, administered by the Chief Administrative Officer, which provides a complaint and disclosure process, as well as enforcement should a contravention of the Code be discovered. This Code was further enhanced by Council on November 20, 2013 to ensure that employees are aware of the Code and the requirement for all Department Heads to disclose any assets and/or interests at the point of hire or re-establishing contracts.

It should be noted that under the Ontario Municipal Act, 2001, the Integrity Commissioner is only responsible for the investigation of Members of Council and/or members of local boards, not employees. The City's Integrity Commissioner would also not have jurisdiction over employees.

The City of Winnipeg Charter Act

The City of Winnipeg Charter Act does not specifically empower the Integrity Commissioner, nor does it provide the authority for any penalties, enforced through Council, and therefore a request to the Province of Manitoba to amend the Charter 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, is being recommended.

FINANCIAL IMPACT

Financial Impact Statement

Date: October 23, 2015

Project Name: **Office of Integrity (Ethics) Commissioner** First Year of Program **2016**

	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Capital					
Capital Expenditures Required	\$ -	\$ -	\$ -	\$ -	\$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Funding Sources:					
Debt - Internal	\$ -	\$ -	\$ -	\$ -	\$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Total Additional Capital Budget Required	<u>\$ -</u>				
Total Additional Debt Required	<u>\$ -</u>				
Current Expenditures/Revenues					
Direct Costs	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>	<u>\$ 100,000</u>
Additional Comments: Direct costs above represent the ongoing operations of the Office of the Integrity Commissioner. This report recommends that funding for these costs be referred to the 2016 Operating Budget Process.					

original signed by
 Ramona Hodges
 Manager of Finance (Campus)
 Corporate Finance Department

CONSULTATION

In preparing this Report there was consultation with:

The Office of the Chief Administrative Officer
Corporate Support Services
Legal Services

OURWINNIPEG POLICY ALIGNMENT

Not applicable.

SUBMITTED BY

Department: City Clerk's
Prepared by: Destiny Watt, Senior Committee Clerk
Date: October 22, 2015

Appendix A – Jurisdictional Review

	Municipality					
	Toronto	Ottawa	Windsor	Brampton	Mississauga	Vaughan
<i>Legislated Authority</i>	City of Toronto Act, 2006; Toronto Municipal Code, Part 5, Sections 158 to 164	Section 223.3 of the Ontario Municipal Act, 2001				
<i>Reporting Structure</i>	Reports to City Council					
<i>Term</i>	Five-year, non-renewable	One year with optional renewal for a five-year term	One year	One year	Five-year, non-renewable	Various (2 and 4 year terms)
<i>Budget</i>	\$300,000 (2014)	\$25,000 annual retainer for the Integrity Commissioner and \$200 per hour to a daily maximum of \$1,000 each year.	\$50,500* (2012) (*For all Transparency and Accountability matters)	\$150,000 (2011)	\$100,000 (2012)	Up to \$200,000/year
<i>Staff Compliment</i>	Full Time City Staff	Support services through the Clerk's Office	Support services through the Clerk's Office	None	None	City Employee as Assistant
Mandate	Investigative - determine whether a Member of Council has violated a City protocol, a by-law or policy governing their ethical behavior	Yes	Yes	Yes	Yes	Yes
	- investigate employees - investigate appointed members on City Committees or Boards	Yes	No	Yes	No	Yes
No, Legislation pertains to Members of Council and/or members of local boards only						

Appendix A – Jurisdictional Review

Mandate (cont'd)	Advisory: - Advice to Members of Council on the application and interpretation of the Code of Conduct and other ethics-related policies/by-laws	Yes	Yes	Yes	Yes	Yes	Yes
	- Assist in the creation or prepare amendments to the Code of Conduct or other policies or bylaws which govern ethical behavior	Yes	Yes	No	No	Yes	Yes
	Educational: - Publish an annual report summarizing complaints, investigations and advice and make recommendations for any improvements to the accountability process.	Yes	Yes	Yes	Yes	Yes	Yes
	Lobbyist Registry: - Oversee the City's Lobbyist Registry	No, has a Lobbyist Registrar in place	Yes	No, currently has a voluntary Lobbyist Registry	No, currently in the process of implementing	No, does not currently have a registry	No, does not currently have a registry

Appendix B – Ontario Municipal Act, 2001

Integrity Commissioner

223.3 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

- (a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- (b) the application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards or of either of them; or
- (c) both of clauses (a) and (b). 2006, c. 32, Sched. A, s. 98.

Powers and duties

(2) Subject to this Part, in carrying out the responsibilities described in subsection (1), the Commissioner may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality. 2006, c. 32, Sched. A, s. 98.

Delegation

(3) The Commissioner may delegate in writing to any person, other than a member of council, any of the Commissioner's powers and duties under this Part. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner may continue to exercise the delegated powers and duties, despite the delegation. 2006, c. 32, Sched. A, s. 98.

Status

(5) The Commissioner is not required to be a municipal employee. 2006, c. 32, Sched. A, s. 98.

Inquiry by Commissioner

223.4 (1) This section applies if the Commissioner conducts an inquiry under this Part,

- (a) in respect of a request made by council, a member of council or a member of the public about whether a member of council or of a local board has contravened the code of conduct applicable to the member; or
- (b) in respect of a request made by a local board or a member of a local board about whether a member of the local board has contravened the code of conduct applicable to the member. 2006, c. 32, Sched. A, s. 98.

Powers on inquiry

(2) The Commissioner may elect to exercise the powers under sections 33 and 34 of the *Public Inquiries Act, 2009*, in which case those sections apply to the inquiry. 2009, c. 33, Sched. 6, s. 72 (1).

Information

(3) The municipality and its local boards shall give the Commissioner such information as the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Same

(4) The Commissioner is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry. 2006, c. 32, Sched. A, s. 98.

Penalties

(5) The municipality may impose either of the following penalties on a member of council or of a local board if the Commissioner reports to the municipality that, in his or her opinion, the member has contravened the code of conduct:

1. A reprimand.
2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or of the local board, as the case may be, for a period of up to 90 days. 2006, c. 32, Sched. A, s. 98.

Appendix B – Ontario Municipal Act, 2001

Same

(6) The local board may impose either of the penalties described in subsection (5) on its member if the Commissioner reports to the board that, in his or her opinion, the member has contravened the code of conduct, and if the municipality has not imposed a penalty on the member under subsection (5) in respect of the same contravention. 2006, c. 32, Sched. A, s. 98.

Duty of confidentiality

223.5 (1) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties under this Part. 2006, c. 32, Sched. A, s. 98.

Exception

(2) Despite subsection (1), information may be disclosed in a criminal proceeding as required by law or otherwise in accordance with this Part. 2006, c. 32, Sched. A, s. 98.

Section prevails

(3) This section prevails over the *Municipal Freedom of Information and Protection of Privacy Act*. 2006, c. 32, Sched. A, s. 98.

Report to council

223.6 (1) If the Commissioner provides a periodic report to the municipality on his or her activities, the Commissioner may summarize advice he or she has given but shall not disclose confidential information that could identify a person concerned. 2006, c. 32, Sched. A, s. 98.

Report about conduct

(2) If the Commissioner reports to the municipality or to a local board his or her opinion about whether a member of council or of the local board has contravened the applicable code of conduct, the Commissioner may disclose in the report such matters as in the Commissioner's opinion are necessary for the purposes of the report. 2006, c. 32, Sched. A, s. 98.

Publication of reports

(3) The municipality and each local board shall ensure that reports received from the Commissioner by the municipality or by the board, as the case may be, are made available to the public. 2006, c. 32, Sched. A, s. 98.

Testimony

223.7 Neither the Commissioner nor any person acting under the instructions of the Commissioner is a competent or compellable witness in a civil proceeding in connection with anything done under this Part. 2006, c. 32, Sched. A, s. 98.

Reference to appropriate authorities

223.8 If the Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code* (Canada), the Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to council. 2006, c. 32, Sched. A, s. 98.

Appendix C – 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 by-laws, 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.

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.

The City Clerk's Department will retain the budget, if approved, and provide support services and administrative functions to the Office of the Integrity Commissioner as required.

SCHEDULE 'B'

Schedule 'B' – Code of Conduct Council of the City of Winnipeg

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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;

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

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;*
- 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".

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

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)

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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.*

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**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*

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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.

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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.

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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.

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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.

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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.

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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.

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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
<p>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.</p> <p>By adding the following wording to Section 68(1) {the jurisdiction of the Ombudsman}</p> <p>"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."</p>	<p>To strengthen the integrity and to enhance public trust in civic government.</p> <p>The City Ombudsman is the appropriate office to investigate complaints of improper conduct by Councillors.</p>