



# Hamilton

## **REPORT 11-002**

### **Accountability and Transparency Sub-Committee**

**Wednesday, December 7, 2011**

**4:30 p.m.**

**Room 830**

**Hamilton City Hall**

**71 Main Street West**

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**Present:** Councillors L. Ferguson (Chair), J. Partridge (Vice-Chair), J. Chapman, D. Arbuckle and L. Ryan

**Absent with Regrets:** Mayor B. Bratina  
Councillor T. Whitehead  
David Broom

**Also Present:** P. Barkwell, City Solicitor  
L. Pasternak, Senior Solicitor  
A. Pekaruk, Director of Audit Services  
R. Caterini, City Clerk  
E. Basse, Integrity Commissioner  
V. Robicheau, Legislative Assistant

### **THE ACCOUNTABILITY AND TRANSPARENCY SUB-COMMITTEE PRESENTS REPORT 11-002 TO THE GENERAL ISSUES COMMITTEE AND RESPECTFULLY RECOMMENDS:**

#### **1. Annual Report 2011 – Integrity Commissioner (Item 6.1)**

That the contract for the City's Integrity Commissioner be extended by up to six months set to expire on June 30, 2012, in order to allow the Accountability and Transparency Sub-Committee to review the contract in depth and ensure the Integrity Commissioner's website is published on the internet.

**FOR THE INFORMATION OF COMMITTEE:**

**(a) CHANGES TO THE AGENDA (Item 1)**

The Agenda for the December 7, 2011 meeting of the Accountability and Transparency Sub-Committee, was approved, as presented.

**(b) DECLARATIONS OF INTEREST (Item 2)**

David Arbuckle declared a conflict of interest for certain discussion respecting item 6.1, Annual Report 2011 – Integrity Commissioner, as the appendices may relate to his work with the Region of Peel.

Councillor Ferguson declared a conflict of interest for certain discussion respecting item 6.1, Annual Report 2011 – Integrity Commissioner, as he is party to the proceedings for the particular case of complaint #2011-001 referenced in the report.

**(c) APPROVAL OF MINUTES (Item 3)**

The Minutes of the October 31, 2011 Accountability and Transparency Sub-Committee, were approved, as amended.

Upon review of Minutes of the October 31, 2011 and Transparency Sub-Committee, Joanna Chapman questioned the previous motion to have the Chair or Vice-Chair, L. Ryan and D. Arbuckle meet with the City of Hamilton's legal staff and arrange meetings with the appropriate staff at the City of Toronto as well as the Integrity Commissioner of Ontario, with the intent to gather information and feedback on the workings of the Lobbyist Register.

The City Clerk's Office was directed to contact the Integrity Commissioner of Ontario and request that the Integrity Commissioner of Ontario attend a meeting of the Accountability and Transparency Sub-Committee.

The City Clerk's Office was directed to contact the appropriate staff at the City of Toronto's Office of the Integrity Commissioner and request that a representative of that Office attend a meeting of the Accountability and Transparency Sub-Committee.

**(d) DISCUSSION (Item 6)**

**(i) Annual Report 2011 – Integrity Commissioner (Item 6.1)**

Mr. Earl Basse, Integrity Commissioner, provided an overview of his report and attachments. He indicated that the Annual Report 2011 – Integrity Commissioner, Appendix A, Page 9, Recommendations 16, 18 and 19, are of particular interest as these provisions are not currently included in the City of Hamilton's Code of Conduct contained in the Procedural By-law, and these recommendations should be discussed by the Sub-Committee.

Peter Barkwell, City Solicitor, indicated that these recommendations are covered; however, staff can provide a cross-reference between the Appendix A and the City of Hamilton's Code of Conduct contained in the Procedural By-law for the Sub-Committee's review.

Legal staff was directed to review the Annual Report 2011 – Integrity Commissioner, Appendix A and the City of Hamilton's Code of Conduct and prepare a cross-reference with any suggested changes and report back to the Accountability and Transparency Sub-Committee by January 2012.

The Integrity Commissioner's presentation respecting, Annual Report 2011 – Integrity Commissioner, was received.

The floor was opened for questions directed to the Integrity Commissioner.

David Arbuckle questioned the \$100 fee for placing a complaint with the Integrity Commissioner and if the fee is preventing those on low income from placing complaints.

Mr. Basse indicated that he has not received such complaints about the fee as once the complaint is deemed to have merit, the fee is returned to the person who submitted the complaint.

Mr. Barkwell further clarified that complaints submitted to the Integrity Commissioner from the public relating to procedure are not merited.

Joanna Chapman questioned if the Procedural By-law should be split into sections that outline whose authority certain issues fall under.

Mr. Barkwell indicated that legal staff could provide amendments in plain language to ensure clarity as to what sections do not apply to complaints to the Integrity Commissioner.

Joanna Chapman questioned if the website for the Integrity Commissioner would be published online as this may help to clarify what constitutes a complaint with merit to the Integrity Commissioner.

Mr. Basse notified the Committee that the website is ready; however, he was unaware that it was not published on the City's website and that he will look into the issue.

Councillor Partridge commented that no other municipalities charge a fee for filing a complaint with their Integrity Commissioners and questioned if those municipalities have repercussions in place should the complaint be vexatious in nature.

Mr. Basse indicated that those municipalities do not have any repercussions.

Laura Ryan questioned if any of the other Integrity Commissioners have taken a position on the fee.

Mr. Basse indicated that they did not take a position on the fee.

Councillor Ferguson spoke to the detriment that vexatious complaints have on Councillors' reputations and asked if there were other approaches that can be taken to avoid vexatious complaints to the Integrity Commissioner.

Lisa Pasternak responded that this issue was discussed and that the fee was developed in attempt to mitigate vexatious complaints.

Laura Ryan questioned if those on low income are less likely to have the money and the knowledge to navigate the system of reporting a complaint to the Integrity Commissioner. Is knowledge an issue? Is public outreach an issue?

Mr. Basse responded that he is available to the public at any time and that the website will help to increase public outreach.

David Arbuckle commented that the Code of Conduct contained in the Procedural By-law is a two-way street. It is a tool for people to hold Councillors accountable and it is a tool for Councillors to say that there is a process to go through when making a complaint.

David Broom, via e-mail, asked if Mr. Basse would be renewing his contract as the City's Integrity Commissioner.

Mr. Basse indicated that, should the City of Hamilton wish to renew his contract, he would accept.

That the \$100 fee for filing a complaint with the Integrity Commissioner be eliminated.

This Item DEFEATED on the following vote:

Yeas: Laura Ryan, Joanna Chapman  
Total 2  
Nays: Councillor Ferguson, Councillor Partridge and David Arbuckle  
Total: 3  
Absent: Mayor Bratina, Councillor Whitehead and David Broom  
Total: 3

Legal staff was directed to bring back possible revisions for further clarity to Section 15.1 of the Procedural By-law.

For disposition on this Item, refer to Item 1.

**(ii) Verbal Update – Code of Conduct for Employees Policy for Political Staff (Item 6.2)**

The verbal update, Code of Conduct for Employees Policy for Political Staff, was deferred to the next meeting of the Accountability and Transparency Sub-Committee.

**(e) ADJOURNMENT (Item 8)**

There being no further business, the Accountability and Transparency Sub-Committee was adjourned at 6:00 p.m.

**CARRIED**

Respectfully submitted,

Councillor L. Ferguson, Chair  
Accountability and Transparency  
Sub-Committee

Vanessa Robicheau  
Legislative Assistant  
Office of the City Clerk  
December 7, 2011