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## City of Mississauga Corporate Report



Date: 2017/06/26

To: Mayor and Council

From: Robert Swayze  
Integrity Commissioner

Originator's files:  
Integrity Commissioner

Meeting date:  
2017-07-05

### Subject

Final Annual Report of the Integrity Commissioner, Robert Swayze

### Recommendation

That Council receive the annual report of the Integrity Commissioner dated June 26, 2017.

### Report Highlights

- The Integrity Commissioner has served the City of Mississauga for a non-renewable term of 5 years ending on June 30, 2017.
- This annual report covers two years commencing on July 1, 2015. In that period he has received 11 complaints from members of the public requesting an investigation and 22 requests for advice from members of Council. All of the complaints were dismissed by him, some after an investigation. During the period, he has written only two reports to Council which are summarized herein.
- The Integrity Commissioner congratulates members of Council and its local boards for their ethical behaviour resulting in the inactivity in his role of enforcing the Council Code of Conduct (the "Code")
- Bill 68 summarized herein, includes changes to the role of Integrity Commissioners and has received royal assent.

## Report

I was appointed Integrity Commissioner by agreement commencing on July 1, 2012 for a non-renewable term of 5 years expiring on June 30, 2017. My previous annual report was received by Council on May 25, 2016 covering the one year period ending on June 30, 2015 and this report will cover the remaining two years of my term expiring on June 30, 2017.

I begin by quoting from my previous Annual Report:

“The members of Mississauga Council continue to stand out among most of the other municipalities in Ontario served by an Integrity Commissioner, including many of my other clients, as having the most cooperative and harmonious relationship with each other and with staff. I have never received a formal complaint in Mississauga from any member of Council or staff.”

This statement remains true during the past two years and for my entire 5 years of service. I am indebted to all members of Council and staff for their respect for, and their support of, the accountability and transparency process which impinges on their time and can try their patience.

The past two years serving the City as Integrity Commissioner has been inactive for me in comparison with many of my other much smaller Integrity Commissioner clients. It has only been necessary for me to attend 4 meetings during the period, three with Council or Committee where I filed reports and one giving advice to the Mayor and her staff. Inactivity for an Integrity Commissioner necessarily implies that the Codes of Conduct are being complied with. The Codes of Conduct are an open invitation for any member of the public to file a complaint and no valid complaints have been received. All members of Council and the local boards of the City, deserve congratulations for their ethical behaviour and their display of integrity in carrying out their duties.

### **Complaints Requesting an Investigation**

During the two years under review, I have received 11 complaints from members of the public requesting an investigation. Six were found on their face to have no validity and were summarily dismissed with reasons, in a confidential E-mail to the Complainant. Most of these complaints arose from a misunderstanding of the process and some were politically motivated. Three complaints were served on the Councillor for a response and were subsequently dismissed after a brief investigation.

One complaint was over the disrespectful comments made by one member of Council to a deputation opposing the zoning for a mosque in the City. The Councillor referred me to the website owned by the deputation which contained clear racial overtones and I dismissed the complaint. I did not regard it in the public interest to report to Council on any of these dismissals.

I found it necessary to write only one report arising from a complaint which recommended minor changes to the Council Code of Conduct. The report was heard by Governance Committee on November 16, 2016 and the complaint concerned a member of Council who did not respond to a request from a constituent and was told that the member was too busy. Rule 1 of the Code required a member “to serve their constituents in a conscientious and diligent manner”. I relied on a legal opinion given to the City of Toronto Integrity Commissioner stating that he cannot found an investigation only on a principle but must have a rule prohibiting specific kinds of behaviour. My recommended changes to the Code were approved to clearly identify the difference between rules and principles. The complaint was dismissed on the basis that diligence was a principle which must be ruled on by the electorate and not the Integrity Commissioner.

### **Report on Enforcement**

My second report to Council during the period was in response to a direction from Council to advise on a decision by the Toronto Integrity Commissioner who found that vigorous attempts by a Councillor to enforce a by-law was discreditable conduct. My report cautioned Council that members have no authority to enforce by-laws but can play a role in the community to raise awareness and encouraging compliance with by-laws.

### **Councillor Gift Information Statements**

During the past 2 years, all members of Council are required by the Code to file with me quarterly Gift Information Statements which identify any gifts received which are valued at more than \$500. I received Declarations for each quarter from all members of Council that no such gifts were received during the year and two information statements identifying gifts of more than \$500. I examined those gifts and found them not to create a conflict between a private interest and the public duty of the Councillor. Reports from all members of Council were filed for each of the quarter years ending with April 30, 2017 and they have been made part of the public record.

### **Requests for advice from Members of Council**

Throughout the two years, I received 22 requests for advice from members of Council. The majority of the topics related to their support of charitable organizations and my interpretation of Rule 2, which encourages Councillors to support community groups. My overriding concern in this area is where community fund raising is done with lobbyists of the City who might expect favours in return. Most of my advice supported the fund raising activity subject to certain caveats such as not handling cash and staying at arm’s length from the community group. Many other subjects were covered including concerns about participating in various activities that may amount to a conflict under the *Municipal Conflict of Interest Act*.

### **Public Contact**

I received E-mails and telephone calls from members of the public, several each month, which I responded to by providing information on the Code and answering other questions about ethics in municipalities. I try to be helpful and have found the majority of these contacts to be polite

and respectful of the process. I do not assist them with filing complaints but if requested, I will send them a copy of one of the Codes which contains a complaint form.

### **Bill 68 - Modernizing Ontario's Municipal Legislation Act, 2016**

During the period I continued to participate in meetings with the Municipal Integrity Commissioners of Ontario ("MICO") and I attended several of them with Provincial staff giving input on Bill 68.

Bill 68 has now received royal assent, but at the date of writing this report it is not known when each section will come into force. For the information of Council, the following is a summary of the important provisions relating to Integrity Commissioners:

1. All municipalities in Ontario will be required to appoint an Integrity Commissioner or have access to one.
2. Expanded duties of the Integrity Commissioner have been made mandatory to include the advisory and educational role as well as the application of the *Municipal Conflict of Interest Act*. ("MCIA")
3. The MCIA will require members to declare pecuniary interests in writing to the Clerk and the Clerk will be required to create a public registry of declared interests.
4. All requests for advice and the giving of advice are required to be in writing.
5. Any inquiry commenced by an Integrity Commissioner will be required to be completed by Nomination Day of an election year or it must be terminated. The complainant may within 6 weeks of voting day, request that the inquiry be reinstated.
6. The Integrity Commissioner may apply to a judge at the cost of the municipality, to seek determination of complaints received under the MCIA. The complaint under the Act must be made within 6 weeks of the complainant becoming aware of the alleged contravention and the inquiry must be completed in 180 days.
7. The Minister can by regulation, create minimum standards for Codes of Conduct.
8. The respondent member of Council will be permitted to participate in a council meeting considering suspension of his or her salary but will not be permitted to vote.
9. Municipalities will be required to insure (indemnify) Integrity Commissioners for liability when acting in good faith.

## **Attachments**

None.



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Robert Swayze, Integrity Commissioner

Prepared by: Robert Swayze