



THE CITY OF WINDSOR

COUNCIL SERVICES DEPARTMENT

BRUCE P. ELMAN
INTEGRITY COMMISSIONER

IN REPLY, PLEASE REFER
TO OUR FILE NO. _____

Office of the Integrity Commissioner

Annual Report 2012 - 13

1 October 2012 – 30 September 2013

Part I -- Background:

The Office of Integrity Commissioner came into existence in the Province of Ontario with amendments to the *Municipal Act*, effective January 1, 2007. Pursuant to the amendments to the *Municipal Act*, the City of Windsor created the Office of the Integrity Commissioner in 2007 and, in 2008, established a **Code of Conduct** for Members of Council, including the Mayor, and the members of certain Local Boards. On June 7, 2011, the City Council passed a new Procedural By-law for Windsor City Council Meetings and its Committees and the Conduct of its Members. Part 14.1(a) provides that Members of Council as well as City committees, agencies, boards and commissions shall act in accordance with the **Code of Conduct** which is set out in Appendix B to the Procedural By-law. The **Code of Conduct** notes that the purpose is to improve the quality of public administration and governance by encouraging high standards of conduct on the part of government officials and, thereby, protect and maintain the reputation and integrity of the City of Windsor.

Effective August 1st, 2011, I assumed the Office of Integrity Commissioner for the City of Windsor. My appointment was renewed effective October 15th, 2012. This will be my second Annual Report on Activities to Council. My first Report covered the period from August 1st, 2011 to September 30th, 2012. The 1st Annual Report is posted on the Integrity Commissioner website at <http://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/Annual%20Report%202011-12.pdf>. This 2nd Annual Report covers a 12 month period from October 1st, 2012 to September 30th, 2013.

The Integrity Commissioner has four functions: (1) Education; (2) Advisory; (3) Complaint Investigation; and (4) Complaint Adjudication.

Part II -- Education Function:

Presentations: I delivered two presentations during the period of time covered by this Report: (1) A Presentation to the Integrity Commissioners of Ontario on “Issues in the Investigation and Adjudication of Complaints”, in Toronto, Ontario, October 17th, 2012; and (2) A Presentation to a Legal Profession class at the University of Windsor, Faculty of Law, on “Issues in Public and Professional Ethics” on September 17th, 2013.

Part III -- Advisory Function:

During my first 14 months as Integrity Commissioner, I received no requests for Advice. During the current reporting period, four “Advice” files were opened. Two resulted in letters of advice being issued. One request was dealt with by telephone. The fourth required no further action. Providing advice is a key function of the Integrity Commissioner. Providing advice can often head-off **Code of Conduct** violations. Indeed, the **Code of Conduct** recognizes the important nature of the “advice function” by providing that “Any written advice given by the Integrity Commissioner to a member binds the Integrity Commissioner in any subsequent consideration of the conduct of the member in the same matter as long as all the relevant facts known to the member were disclosed to the Integrity Commissioner.” In this way, the Member is protected from any future Complaints in regard to the same matter where the Integrity Commissioner’s advice has been sought out in advance.

Part IV -- Inquiries/Complaints:

- 1. Cases Carried Forward:** There were four cases unresolved at the time of my 1st Annual Report. One case was transferred to me by the previous Integrity Commissioner. Because of the amount of time that had elapsed from the date of the original Complaint and other events that had transpired in the interim, I determined that the Complaint would have to be re-submitted under the new **Complaint Protocol**. I advised the Complainant of my decision but no new Complaint was received. A second case, that involving Councillor Maghnieh, resulted in a Report to Council on September 4th, 2012. The Report may be found at <http://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/Code-of-Conduct%20Sept%204,%202012.pdf>. Council gave full consideration to the Report at its October 15th, 2012 Meeting. The decision of Council is

documented in CR235/2012 and may be found on the Integrity Commissioner's website at <http://www.citywindsor.ca/cityhall/Municipal-Accountability-and-Transparency/Integrity-Commissioner/Documents/CR235-2012.pdf>. Two other cases remained active at the time of the 1st Annual Report. In both of these cases, I denied the Complaints. The Complainants, in each case, were provided with extensive reasons for my decision and each Respondent was provided with a letter notifying them of my decision.

2. **New Cases:** Seven new files were opened during the reporting period. After initial consultations regarding the subject matter of the concerns alleged and the process to be followed, no further action occurred on four of these files. In two cases, the Complaint was denied. One case remains under active investigation at this time.
3. **Brief Service:** There were six cases of "brief service". "Brief service" constitutes instances where an individual has contacted the Integrity Commissioner but no formal or informal Complaint has been made and no file has been opened. This may be because the nature of the concern is outside the jurisdiction of the Integrity Commissioner or because the alleged complaint is clearly not a violation of the **Code of Conduct** or because the individual is simply seeking information. In some instances, the answer provided ends the matter; in other instances, a referral may be made to a more appropriate entity or individual. In some instances, the individual is advised on the procedure for making a formal Complaint although, ultimately, no formal Complaint is received.

Part V -- Policy Development:

1. **The Code of Conduct:** I have made some progress on possible changes to the contents and structure of the **Code of Conduct**. My goal is threefold: (1) To reduce inconsistencies and contradictions; (2) To simplify the structure and make it more accessible to Members of Council, City staff, and the citizens of Windsor; and (3) To bring it up-to-date with other Municipal Codes of Conduct. However, this remains a work in progress at this time.
2. **Complaint Protocol:** The **Complaint Protocol for Members of Council and Others Governed by the Code of Conduct** was presented to Council and adopted on May 8th, 2012. This Protocol provides a regime under which **Code of Conduct** Complaints will be investigated and adjudicated. There remains some fine-tuning to be done to ensure consistency.

Part VII – Conclusion:

As we move forward, I will, in due course, be suggesting certain changes to the **Code of Conduct** to reduce inconsistencies, to simplify the structure, to bring it up-to-date, and to make it more accessible. Add a specific provision on Conflicts of Interest remains under consideration. Some clarifications may be introduced to the **Complaint Protocol** to set out procedures for the presentation of Investigation Reports to Council. Finally, further enhancements will be made to the webpage.

Respectfully submitted,

A handwritten signature in black ink that reads "Bruce P. Elman". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Bruce P. Elman
Integrity Commissioner
City of Windsor