

Office of the Integrity Commissioner

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ANNUAL REPORT

OFFICE of the INTEGRITY COMMISSIONER

The City of Edmonton

Council Code of Conduct Bylaw 18483

(“Code of Conduct” or “Code”)

For the period September 3, 2020 to
December 31, 2021 (“Reporting Period”)

INTEGRITY OFFICE

On September 5, 2018, Edmonton City Council appointed Jamie Pytel as the City's Integrity Commissioner and Brent Rathgeber as the Ethics Advisor. These positions form an independent Integrity Office which supports City of Edmonton Council Members with maintaining the high level of integrity that they and the public have come to expect. Together, Jamie and Brent administer the *Council Code of Conduct* (the "Code").

The Integrity Commissioner and the Ethics Advisor are not City employees. The Integrity Commissioner was appointed by Council under Bylaw 18567 *Integrity Commissioner Bylaw*, which delegates the duty of receiving Code complaints and carrying out investigations to the Integrity Commissioner. The Integrity Commissioner reports directly to Council and, in addition to investigations, provides proactive advice with respect to the Code and related procedures, including best practices relative to codes of conduct and elected officials.

The Ethics Advisor provides legal advice to Councillors regarding the Code and individual ethics. The Ethics Advisor also provides educational programs and materials to Council Members and their staff upon request.

Prior reporting periods for this report ran from September to September. The current reporting period was extended to bring the annual report in line with the calendar year and annual budget. This report covers the period from September 2020 to December 2021.

The budget for the Integrity Office for the Reporting *Period* was \$200,000.00. The total expenditures for the Integrity Office for this 15-month Reporting Period was \$167,534.10. The total expenditures for the previous 12-month Reporting Periods were \$132,473.57 and \$132,164.01.

INTEGRITY COMMISSIONER ACTIVITIES

Complaints and Enquiries

In the Reporting Period, the Integrity Commissioner received 38 complaints, six of which were investigated. Below is a summary of the investigation activity for this and prior periods:

REPORTING PERIOD	COMPLAINTS RECEIVED	COMPLAINTS INVESTIGATED	FINDINGS	SANCTIONS IMPOSED
Sept 2018 to Sept 2019	16	6	None	None
Sept 2019 to Sept 2020	20	12	9 investigations resulted in findings of multiple Code breaches, including conduct that was disrespectful, lacking in decorum and for posting misleading information about Council decisions on social media.	None
Sept 2020 to December 2021	38	6	6 investigations resulting in findings of violations, including: Council Member violated the Code when he used electronic mail addresses used for his official Councillor duties for his personal election campaign activities and communications (4 complaints). Council Member deliberately retaliated against Code complainants; publicly ridiculed and tried to intimidate Code complainants and published on social media information that was false and misleading about prior Code complaints; his social media posts lacked decorum, were disrespectful and misleading (2 complaints).	None

The balance of the complaints received in the current Reporting Period that were not investigated, included:

- Complaints outside the Integrity Commissioner’s jurisdiction or did not allege facts that, if proven true, would be a violation of the Code, such as:
 - complaints about individuals who were not current Council Members;
 - complaints about a Council Member’s staff member;
 - concerns about social media activity not covered by the Code;
 - a complaint governed by the *Procedures Bylaw*, not the Code;
 - conduct purely in the realm of campaigning / political commentary and not about official duties, City business or the Code;
- Complaints with deficient or incomplete information, such as not providing identifying information and contact information of the Complainant, and therefore could not be investigated;
- Complaints that were resolved informally, including the Integrity Commissioner suggesting a path forward short of an investigation, a Council Member providing information to Complainants about their complaints and Complainants choosing not to proceed;
- Eleven complaints were received and suspended during the 90-day period leading up to the municipal election. All 11 complaints were dismissed post-election as 10 related to Council Members no longer on Council and 1 did not warrant investigation.

Code Amendments

Each year, the Integrity Commissioner considers whether any amendments to the Code or related procedures are advisable. This year, possible amendments either to the Code or related procedures will be presented for discussion at upcoming City Council meetings in consultation with the City Solicitor’s Office and the City Clerk’s Office.

Based on complaints made during the campaign period last year, the Integrity Commissioner undertook to apprise Council of concerns by some members of the public that the Code permits suspension of Code investigations in the 90 days leading up to the municipal election. Concerns were also raised around endorsement of candidates. These will be topics for discussion at an upcoming presentation to Council, along with other topics of interest.

Integrity Commissioner Activity

In response to a Council action item, in January 2021 the Integrity Commissioner presented to Council on the advisability of having a social media policy for Council. Council decided to not pursue such a policy.

In February 2021, the Integrity Commissioner participated in a Council information session with the Ethics Advisor regarding Code requirements and the municipal election, following which the Integrity Commissioner provided Council with written guidance on how to navigate campaign activity, particularly social media activity, as it relates to Code requirements.

In September 2021, the Integrity Commissioner invited Council Members to provide feedback directly to her on the Code and the processes related to the Code. **The Integrity Commissioner wishes to extend this invitation and invite current Council Members to contact her directly if they wish to meet individually with feedback about the Code or this office.**

In November 2021, the Integrity Commissioner along with the Ethics Advisor presented at Council Orientation with respect to the Code. This was an introductory session. We look forward to continuing to provide information to Council and having conversations with Council about the Code.

ETHICS ADVISOR'S ACTIVITIES

The Ethics Advisor continues to meet with Councillors at their request and at their convenience. The Ethics Advisor provided advice to Members of Council, always on a confidential basis. He met with Council Staffers, as a group, to explain in detail the Code of Conduct and interpretation of various sections. During the Reporting Period, the Ethics Advisor provided confidential advice to Councillors or their designated representative on approximately 65 separate occasions (including supplemental advice). The advice was provided primarily orally (by telephone) or on in writing (by e-mail) depending on the Councillor's preference and timelines. On rare occasions, the advice was given during a face-to-face meeting with the Councillor and at the Councillor's request.

The Ethics Advisor assisted Councillors, who were the subject of a Complaint Investigation. This assistance might include Complaint Review, statement preparation and/or attendance with the Councillor when being interviewed by the Integrity Commissioner.

Interactions with Councillors or their designated representatives were down slightly during the current reporting period as compared to the last, notwithstanding that the Reporting Period

extended beyond a calendar year. This is counted for almost exclusively by COVID-19 and the resulting decline in invitations to Councillors to attend events and attractions (and the questions surrounding the suitability of accepting those gifts).

Regardless, Part L of *the Code of Conduct* dealing with “Gifts and Benefits” was still the section of the Code generating the most inquiries. However, respectful communications and social media posts are accounting for an increasing number of inquiries to the Ethics Advisor.

Predictably, event attendance continued to generate the most inquiries and the most confusion. The purpose of 1 (g) of Part L of the Code, required a gift of admission to, or food and beverages, at an event to be “offered by the entity or a representative or member of the entity, responsible for organizing or presenting the event.”

The purpose behind this requirement, ostensibly, was to prevent individuals or organizations from purchasing access to or influence with elected officials. This correlation between event attendance and influence purchasing is debatable and perhaps even counterintuitive and seems unintentionally inequitable when applied to the arts community and other non-profit organizations, who may lack the resources to offer complimentary tickets to the events they sponsor and promote.

Accordingly, it was recommended to Council and accepted that the giftor be the sponsor of the event be deleted from the Code.

As 2021 was an election year, the Ethics Advisor and the Integrity Commissioner provided an extensive pre-election briefing to Councillors and their staffs. Topics involved the interaction between the Code of Conduct and the various Election bylaws and statutes.

Once the new Council was sworn in, the Ethics Advisor and the Integrity Commissioner participated in Council orientation and walked the new Councillors through the Code requirements. The Ethics Advisor will be setting up a number of one-on-one meetings with Councillors and their staff. These sessions will be directed primarily, but not exclusively, to the new Councillors, who will be less familiar with the Code of Conduct and the investigative process.

Finally, the Ethics Advisor met with the Council on several occasions but generally virtually and on fewer occasions due to COVID-19. The Ethics Advisor will continue to provide input and advice and discuss such unresolved issues as the future establishment of a Lobbyist Registry for Edmonton City Council and further amendments to *the Code of Conduct*, (including gift and event acceptability).

In summary, the Integrity Office is now over three years old; and most, but not all, of the bugs have been worked out. The Ethics Advisor believes that the Office and the *Code of Conduct* are generally working as intended and may have even exceeded expectations. This is evidenced by the very few substantiated breaches of the *Code of Conduct* since the inception of the Integrity Office. However, some fine tuning may still be required and even a well-functioning program can always be improved.

As always, the Ethics Advisor finds his role challenging and rewarding. It is an honour to contribute to democracy by promoting ethical conduct by elected officials.

CLOSING COMMENTS

The number of complaints received are within the normal level of activity of Canadian cities of similar population and size of this Council. However, this is a proactive office in which we strive to provide advice and information to avoid any potential Code complaints and violations. We continue to invite feedback from and dialogue with Council about topics related to the *Council Code of Conduct*.

We would like to acknowledge with gratitude the Office of the City Clerk for providing exceptional support and assistance over these past three years.

Respectfully Submitted

Jamie Pytel
Integrity Commissioner

Brent Rathgeber
Ethics Advisor