

Office of The Integrity Commissioner



2011 Annual Report



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Commissioner's Remarks

This is the second Annual Report submitted to City Council since I was appointed as Integrity Commissioner for the City of Vaughan in April 2009. It covers the period January 1, 2011 to December 31, 2011. The first Annual Report was submitted to City Council in July 2010, covering the period April 2009 to April 2010. Although the work of the Office of the Integrity Commissioner continued through the period from June 30, 2010 to the Inaugural meeting on December 6, 2010, this Office did not accept or begin the investigation of any complaints within the prescribed moratorium on filing of complaints or complaint resolution in a regular municipal election year pursuant to section 11 of the Code of Ethical Conduct Complaint Protocol.

During the 2010 municipal election campaign, sitting Members of Council, City staff and members of the public conferred with this Office on various matters in relation to the Code of Ethical Conduct (the "Code"). One formal complaint investigation, which had begun in April 2010, was carried forward and the report was put on hold during the election period as directed by Council. The final report was submitted to the first regular meeting of the 2010-2014 term of Council where the policy recommendations were unanimously adopted.

During the 2010 municipal election, this Office received many questions about matters that fell within the jurisdiction of the *Municipal Elections Act* (the "MEA"). At this time, in addition to questions, this Office received 3 informal complaints and 1 request to file a formal complaint under the Code. I advised the members of the public who brought forward these complaints, that there was a moratorium on Code complaints under section 11 of the Complaint Protocol and I encouraged them to either discuss the matters directly with the Members of Council or wait until after the municipal election to file their complaints. Some members of the public conveyed to me their discontent with the Complaint Protocol policy of no complaints prior to the municipal election. In response, I cite and concur with the reasoning of Professor David Mullan, the former Integrity Commissioner of the City of Toronto and the first Integrity Commissioner appointed in Ontario. In his 2008 Annual Report, Professor Mullan stated that "there is a very real risk that members will be confronted during an election campaign with the allegation that they are the subject of a *Code of Conduct* complaint, and have no effective way of defending himself or herself or securing timely vindication". Since 2009, amendments to the MEA set the municipal election date in the Province of Ontario to the fourth Monday of October, beginning in October 2010. It is for the reasons stated above that the City of Vaughan's Complaint Protocol has set a moratorium on the complaint receipt or resolution beginning June 30th in any regular municipal election year.

The challenges facing this Office and the need for confidentiality require a high level of professionalism and trust in any individual working with me. I would like to take the opportunity to again acknowledge the invaluable contribution to this Office of my Executive Assistant Cathy Passafiume. Ms. Passafiume embodies the professionalism of City of Vaughan staff and she continues to be an invaluable pillar of dedicated effort and enthusiasm in this Office.

Activities of the Office of the Integrity Commissioner: May 1, 2010 – December 31, 2010

During the period of the moratorium on filing Code complaints and throughout the 2010 municipal election, I met and spoke with Members of Council seeking re-election, City staff and members of the public on conduct that in the view of some, could give rise to the application of the Code. Some of the questions about the conduct of the Members of Council that were brought to my attention were Code related, while other questions were about matters governed by the MEA. By way of example, these included issues relating to the date of election sign postings, the use of the City's website to post the Councillor Newsletter and comments made in the media by Members seeking re-election.

This office received 7 email inquiries, 37 telephone inquiries and 4 walk-in inquiries from the public during this time. In addition to general inquiries and questions, I received one request to file a formal complaint and three informal complaints made by the public. None of the inquiries, informal requests or formal request to file a complaint, resulted in any complaints being filed under the Code after the moratorium had passed.

In addition, I consulted with the City Manager, the City Solicitor, the City Clerk and the City Auditor on election year Q's and A's to provide Members of Council seeking re-election with the City administrative policy rules and Code rules applicable during an election year.

This Office also completed the investigation of Complaint Investigation File # 04.27.10.

On December 8, 2010, I delivered to Members of Council-elect, a presentation on the rules of the Code of Ethical Conduct and the Complaint Protocol.

Office of the Integrity Commissioner: January 1, 2011 – December 31, 2011

1. The mandate of the Integrity Commissioner is to ensure that the Code of Ethical Conduct and the rules governing the behaviour of elected officials is objectively applied. In particular, this Office:
 - a. conducts inquiries into formal and informal complaints into whether a Member of Council has contravened the Code;
 - b. Provides written and oral advice to individual Members of Council about their own situations under the Code and other policies and protocols governing the ethical behaviour of Members at the City;
 - c. Provides general advice to City staff on issues of ethics and integrity including Code rules and the intersection with City policies, protocols and office procedures, with a view to emphasizing the importance of ethics in maintaining public confidence in municipal government activities.

It is significant to note that since the beginning of the 2010-2014 term, I have not received any formal or informal complaints against any Member of Vaughan City Council. Members of Council, City staff and members of the public have made use of this office in a different way than I had experienced during my appointment under the previous term of Council. While I will not speculate or draw any conclusions regarding the statistics compiled for this report, I am very pleased to say that, to my knowledge, Members of Council have consulted with this Office to confirm their roles, responsibilities and obligations under the Code *prior to* going forward with certain activities within their mandate. During 2011 and to date in 2012, the Members of Council have demonstrated a sound understanding of the ethical underpinnings of the Code rules and a willingness and commitment to work with this Office.

From the public, I have received questions requiring me to clarify the meaning of certain rules of the Code and in particular, as they relate to Gifts and Benefits and Responding to Inquiries from the Public. I have also received questions regarding matters that do not fall within the jurisdiction or mandate of this Office.

Updates to the Code and the Complaint Protocol

2. There were two updates to the governing documents of this Office in 2011.
 - a. In March 2011, this Office recommended and Council adopted an amendment to the Code of Ethical Conduct Complaint Protocol by including a provision to reimburse actual legal expenses incurred by Members of Council in relation to a Code complaint.

On March 23, 2010, the Committee of the Whole considered the report of the Commissioner of Legal & Administrative Services and City Solicitor to adopt an Indemnification By-law and directed that the recommendation be referred to the Integrity Commissioner for review and comment as it pertained to Members of Council.

Providing legal assistance and indemnification to Members of Council is essential to the fair treatment of public officials and the effective management of an organization. Members of Council may be subject to Code of Ethical Conduct complaints and investigations despite the fact that they may be acting in good faith, within the scope of their duties or in the course of their mandate. It is

therefore necessary that they receive appropriate legal advice from their own counsel. This is necessary to provide Members of Council with protection from personal liability as long as they are acting in their official capacity and not acting against the interests of the City.

This Office, therefore recommended the inclusion of a section for payment of legal reimbursement into the Complaint Protocol to provide Members of Council with reasonable protection from personal financial losses or expenses incurred while they were acting within the scope of their duties or in the course of their mandate in matters governed by the Code.

- b. In June 2011, the Integrity Commissioner recommended and Council adopted an addition to the Commentary to Rule 1(b) of the Code.

The Framework and Interpretation of the Code states that from time to time additional commentary and examples may be added to the document by the Integrity Commissioner. This tool was included in the Code to reflect the Code as a living document that could respond to new requirements of a growing municipal government.

The recommended addition to Rule 1(b) was based on several inquiries made to this Office by members of the public and Members of Council on the application of the Code in relation to Members' responding to inquiries from the public. As Members of Council encounter various issues from the public in the course of their day-to-day activities, it is appropriate and necessary for them to respond to the pragmatic queries and issues that they receive from the public.

The Code both recognizes that there is a fundamental ethical responsibility of Members of Council to respond to residents and that there are limits to that responsibility. The addition to the Commentary to Rule 1(b) of the Code was intended to fill the regulatory gap by clarifying the affirmative obligation in the rule.

Sample Comments to Questions from Members of Council:

1. A Member of Council requested comments on the application of the Code in relation to whether a member of the Councillor's staff could participate as a volunteer for a charitable organization located in Vaughan. This office provided comments on protocols to avoid any appearance of conflict with employment in the Councillor's office, the importance of confidentiality in relation to information received in the Councillor's office and the responsibilities as a volunteer with the charitable organization.
2. A Member of Council requested comments on the application of the Code in relation to hosting a seasonal fundraising event. This office provided the comments that the Code recognizes that Members of Council are community leaders and as such may lend their support to and encourage community fundraising events for registered charitable and not-for-profit groups. As a community leader, any charitable group may approach a Member of Council and request their support. As a Member of Council, their obligation under the Code is to ensure that their decision to lend support is transparent and equitable. There is no prohibition under the Code that precludes a Member from lending his/her support to a local community organization or not-for-profit and encouraging others to lend their support to the event. However, the Member should not do so if there is any real possibility that the community organization holding the event or businesses that the Member encourages to lend their support will see this or it may be perceived to be seen in any way as the cost of securing support from the Member for any form of permission or preference that the community group or business may be seeking from the City (or even as a payback for "past favours").
3. A Member of Council requested comments on the application of the Code in relation to rules governing acceptance of a speaking engagement by another government organization. This office responded that Rule 2(1)(f) of the Code provides an exception to the prohibition of accepting a fee, advance, gift, loan or benefit. The rule states that a recognized exception is when the "food, lodging, transportation and entertainment [is] provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event".

Complaints under the Code of Ethical Conduct

	2009-2010	2011
Formal Complaints Received:	11	0
Informal Complaints Received:	21	0
Total:	32	0
Inquiries on the application of the Code		
From the public:	205	39
From City staff:	37	33
Total	242	72

Members of Council: Written opinions on the application of the Code		
Informal opinions provided to Members of Council:	36	62
Formal opinions provided to Members of Council:	15	10
Total	51	72

I would like to commend Mayor Maurizio Bevilacqua and Members of Council on their stated commitment to elevating the importance of the principles contained in the Code of Ethical Conduct through the declaration of the Vaughan Accord, a proclamation of ethical standards for council members.

The statistics above demonstrate that there was a considerable reduction in the number of inquiries made by the public regarding the application of the Code. Although numbers may not tell the full story, the commitment on the part of Members of Council to seek written or oral advice from this Office on their own situation under the Code and other policies and protocols of the City, should be considered as a possible contributing factor to the absence of formal or informal complaints against any Member of the Council of the 2010-2014 term.

Education and Outreach

In the period that covers this annual Report, I met individually with all Members of Council and various senior staff officials at the City of Vaughan.

Education on the mandate of the Office of the Integrity Commissioner to political staff, members of City staff and the public, as well as outreach to members of the public at large about the importance of ethics to enhance public confidence in municipal government, continues to be an important focus of the activities of this Office.

Presentations:

- Ministry of Community Safety and Correctional Services
(spoke at and provided an overview of the role and mandate of the Integrity Commissioner and the importance of ethics and integrity in the public workplace)
- Media Outlet
(spoke at and provided an overview of best practices in public sector transparency, Freedom of Information legislation and government accountability)
- Integrity Commissioners of Ontario
(hosted the Spring 2011 bi-annual meeting of independent municipal ethics officers and appointed Integrity Commissioners in Ontario. Guest speakers included the Integrity Commissioner of Ontario, the Conflict of Interest Commissioner of Ontario and the Dean of Osgoode Hall Law School. Attended Fall 2011 bi-annual meeting hosted by the Integrity Commissioner of the Town of Richmond Hill)
- The Law of Ethics and Investigative Journalism, Osgoode Hall Law School
(participated as panelist at Law Commission of Ontario sponsored conference)

Code of Ethical Conduct Training:

- Code of Ethical Conduct training: Conducted at the New Council Orientation Session
- Code of Ethical Conduct one-on-one discussion with each Member of Council on the roles and responsibilities required under the rules of the Code.
- Code of Ethical Conduct training for the Executive Assistants of Members of Council.

2011 Statement of Expenditures*

2011	
Salaries and Benefits	154,215
Membership/Fees	0
Meals	0
Training and Development	150
Seminars and Workshops	614
Office Supplies	1,946
Computer Supplies	0
Computer Hardware	2,545
Copier-Fax Supplies/Lease	1,953
Cellular Hardware Equipment	153
Long Distance/Conferencing	128
Printing (internal)	89
Professional Fees	1,325
Wireless/Internet	847
Sundry Expenses	0
Office Lease	14,560
Total	178,525

* These figures are preliminary unaudited amounts as at January 24, 2012. Minor adjustments may be made for audit purposes.

Closing Remarks

Since my last Annual Report, there has been a municipal election, the doors of the new Vaughan City Hall have been opened and the City's Administration has completed a comprehensive program review. On September 25, 2011, the Honorable Mayor Maurizio Bevilacqua welcomed in a new era to the City of Vaughan with the official opening of the new Vaughan City Hall, which is, as he stated "a symbol of the future of Vaughan...[representing] where [the City is], and [a] promising tomorrow".

The City's Code of Ethical Conduct, 2009 was intended to be a living document, the overarching purpose of which was to set standards of ethical behaviour as a secure foundation for good government in the City of Vaughan for the future. Since the Code was adopted, many other municipalities have requested copies of it and consulted with this Office on the process implemented by the City of Vaughan in the development of its accountability framework.

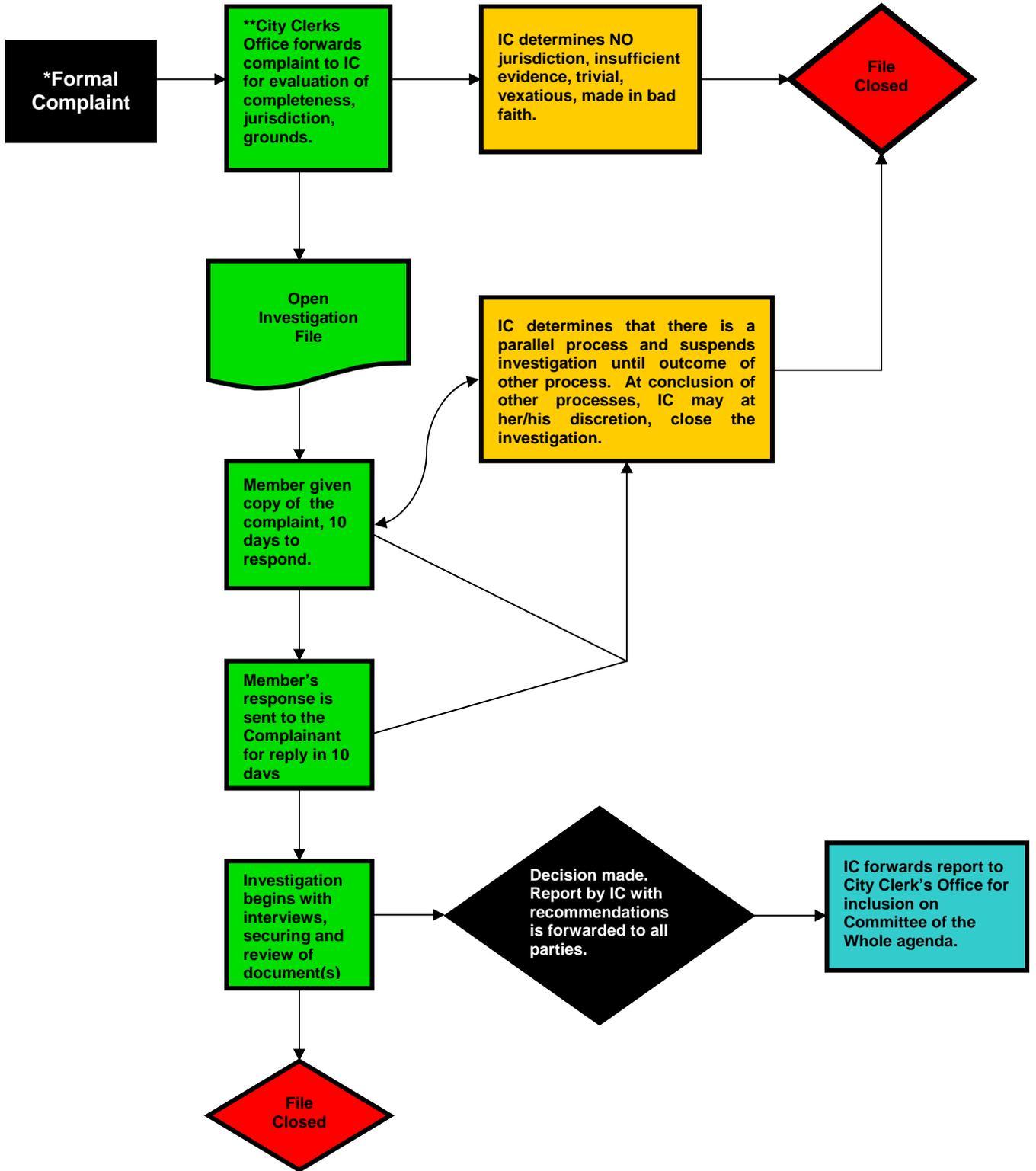
There are those who continue to see this Office as an entry portal to the City to deal with matters that are outside of my jurisdictional authority. The fact that I can be reached directly by telephone or that an individual member of the public may walk directly into my office, continues to be a tangible demonstration of access and openness and something for which the City of Vaughan should be very proud. I would like to acknowledge the support that I have received from the City Manager and the Senior Management Team. Further, in 2011 this office moved from its temporary location to the current location on Tigi Court. I would like to express my thanks for the efficient and professional assistance of the Commissioner of Community Services and the Facilities staff.

The existence of the City of Vaughan's Code of Ethical Conduct continues to provide the boundaries within which ethical decision-making of elected officials is measured. In April 2011, I was re-appointed as the City's Integrity Commissioner and I look forward to providing continued guidance on the roles and responsibilities of Members of Council within the City's accountability framework.

Respectfully submitted by:

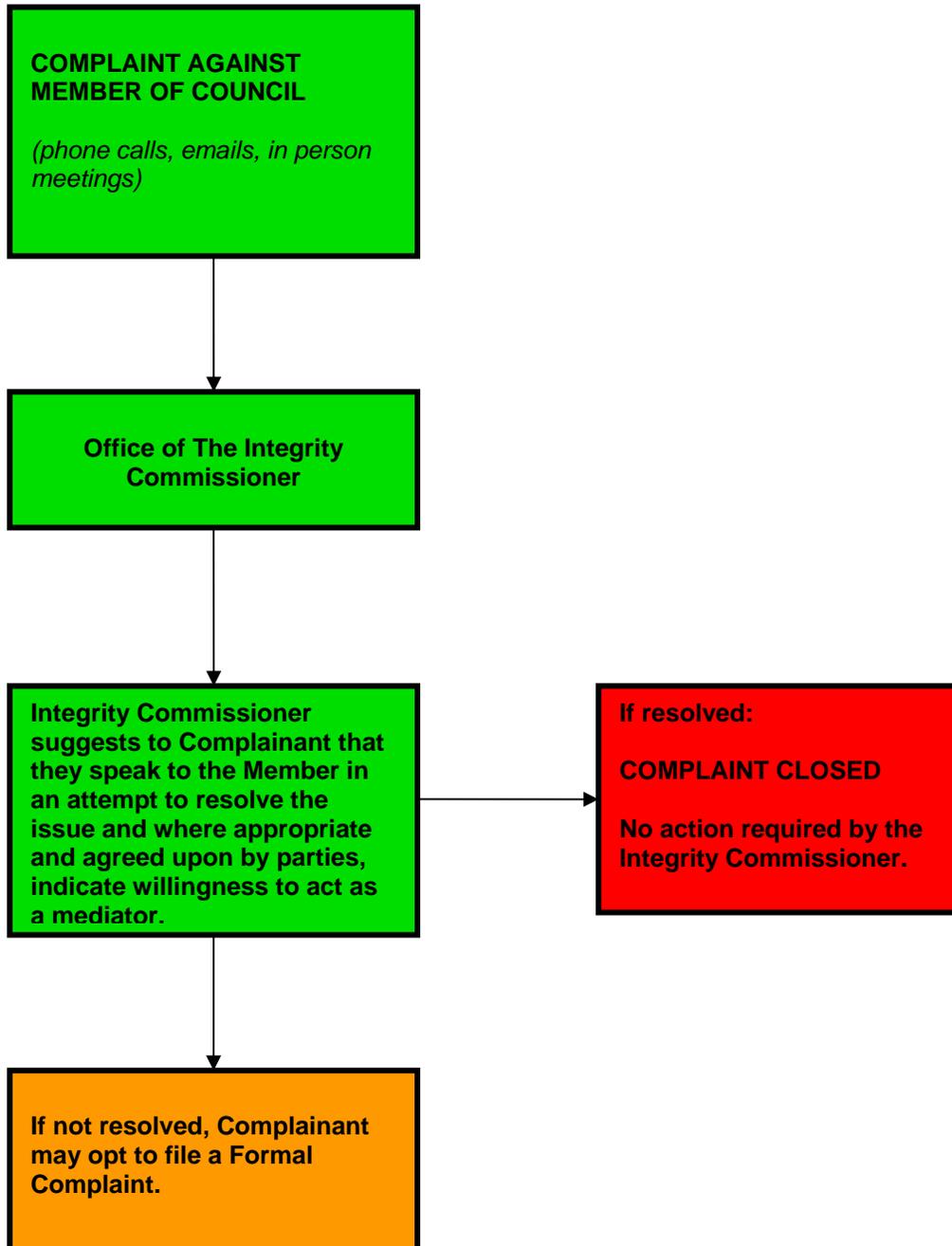
**Suzanne Craig
Integrity Commissioner**

THE FORMAL COMPLAINT PROCESS



* A Formal Complaint must be accompanied by a sworn affidavit.
 ** All formal complaints are received by the City Clerk's office and then forwarded to the Integrity Commissioner's office for evaluation of iurisdiction. completeness and/or investiaation

THE INFORMAL COMPLAINT PROCESS



Commissioner's Reports

File 04.27.10:

CofW Dec 7, 2010 Report 43, Item 39

http://vaughan.ca/vaughan/council/minutes_agendas/committee_2010/pdf/CWA1207_39.pdf

Council December 14, 2010

http://vaughan.ca/vaughan/council/minutes_agendas/council_2010/pdf/1214-10council%20minutes.pdf

Report on reimbursement of legal expenses for members of council on complaints to the Integrity Commissioner:

CofW Mar 22, 2011 Report #14, Item 24

http://vaughan.ca/vaughan/council/minutes_agendas/committee_2011/pdf/CWA0322_24.pdf

Council April 5, 2011

http://vaughan.ca/vaughan/council/minutes_agendas/council_2011/pdf/0405-11council%20minutes.pdf

Indemnification by-law:

CofW March 22, 2011 Report #14, Item 22

http://vaughan.ca/vaughan/council/minutes_agendas/committee_2011/pdf/CWA0322_22.pdf

Council April 5, 2011

http://vaughan.ca/vaughan/council/minutes_agendas/council_2011/pdf/0405-11council%20minutes.pdf

Amendments to the Code of Ethical Conduct

CofW June 21, 2011 Report #35, Item 2

http://vaughan.ca/vaughan/council/minutes_agendas/committee_2011/pdf/WS0621_2.pdf

Council June 28, 2011

http://vaughan.ca/vaughan/council/minutes_agendas/council_2011/pdf/0628-11council%20minutes.pdf

IC Recommendations

File #	C.of.W	Report	Item	IC Recommendations	Adopted by Council	Recommendations Implemented	
						YES	NO
Formal Complaint Investigation Report 04.27.10							
	Dec 7, 2010	43	39	<p>1. That Council require the appropriate City department to clearly indicate the policy and processes currently available to members of the public and members of City staff for submission of complaints in relation to corporate matters for independent review.</p> <p>2. That Council require the appropriate City department to consider the development of a protocol for Members of Council in relation to handling of complaints from members of the public and members of City staff regarding decisions and actions of the City administration.</p> <p>3. That pursuant to the Procedure For Implementation of Policy Number 05.5.23 Respectful Workplace, all City individual to whom the City's Respectful Workplace Policy applies, attend mandatory training on the prevention of workplace harassment and discrimination and their rights and obligations under the policy.</p>	Dec 14, 2010	?	
Report on reimbursement of legal expenses for Members of Council on complaints to the Integrity Commissioner:							
	March 22, 2011	14	24	The Integrity Commissioner recommends that Council amend the Complaint Protocol for the Code of Ethical Conduct ("Complaint Protocol"), by including a provision to reimburse actual legal expenses incurred by Members of Council as outlined in Appendix 1.	April 5, 2011	x	
Indemnification by-law							
	March 22, 2011	14	22	The Commissioner of Legal and Administrative Services and City Solicitor, in consultation with the City Manager, the Senior Management Team, and the Integrity Commissioner, recommends that Council enact an Indemnification By-law as described herein.	April 5, 2011	x	
Ammendments to the Code of Ethical Conduct							
	June 21, 2011	35	2	The Integrity Commissioner recommends amendments to the Code of Ethical Conduct; Commentary to Rule 1 (b), the following be added: Responding to Inquiries from the Public.	June 28, 2011	x	

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