

Agenda Including Addeds

Corporate Services Committee

7th Meeting of the Corporate Services Committee

March 19, 2019, 12:30 PM

Council Chambers

Members

Councillors J. Morgan (Chair), J. Helmer, P. Van Meerbergen, A. Kayabaga, S. Hillier,
Mayor E. Holder

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6.1	Land Disposition/Solicitor-Client Privileged Advice/Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations	
	A matter pertaining to the proposed or pending disposition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.	
6.2	Land Disposition/Solicitor-Client Privileged Advice/Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations	
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6.3	Land Acquisition/Solicitor-Client Privileged Advice/Solicitor-Client Privileged Advice	

A matter pertaining to the proposed or pending acquisition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

6.4 Land Acquisition/Solicitor-Client Privileged Advice/Position, Plan, Procedure, Criteria or Instruction to be Applied to Any Negotiations

A matter pertaining to the proposed or pending acquisition of land by the municipality, including communications necessary for that purpose; advice that is subject to solicitor-client privilege; commercial and financial information, that belongs to the municipality and has monetary value or potential monetary value and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality.

6.5 Personal Matters/Identifiable Individual

A matter pertaining to personal matters involving identifiable individuals who are municipal employees with respect to employment related matters and advice and recommendations of officers of the Corporation including communications necessary for that purpose.

6.6 Litigation/Potential Litigation/Solicitor-Client Privileged Advice

A matter pertaining to litigation or potential litigation and advice that is subject to solicitor-client privilege, including communications necessary for the purpose and directions and instructions to officers and employees or agents of the municipality.

6.7 Litigation/Potential Litigation/Solicitor-Client Privileged Advice

A matter pertaining to an identifiable individual; employment-related matters; litigation or potential litigation affecting the municipality; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; advice or recommendations of officers and employees of the Corporation, including communications necessary for that purpose and for the purpose of providing instructions and directions to officers and employees of the Corporation.

7. Adjournment

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	2018 MUNICIPAL ELECTION

RECOMMENDATION

That, on the recommendation of the City Clerk, the report dated March 19, 2019 and entitled “2018 Municipal Election” providing an update with respect to the 2018 Municipal Election, BE RECEIVED for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Corporate Services Committee – February 20, 2018 – 2018 Municipal Election Update
- Council – May 1, 2017 – Ranked Ballot Community Engagement Results Update
- Corporate Services Committee – April 22, 2017 – Ranked Ballot Community Engagement Results
- Corporate Services Committee – January 24, 2017 – Ranked Ballot Election Model
- Corporate Services Committee – July 19, 2016 – Amendments to the Municipal Elections Act
- Corporate Services Committee – October 20, 2015 – Ranked Balloting Process
- Corporate Services Committee – July 21, 2015 – Province of Ontario Consultation – Municipal Elections Act
- Corporate Services Committee – June 15, 2015 – Submission: Ranked Ballots for Municipal Elections in Ontario
- Corporate Services Committee – June 15, 2015 – Submission: Province of Ontario – Legislation Review Municipal Elections Act, Municipal Conflict of Interest Act and Municipal Act

BACKGROUND

The purpose of this report is to provide a review of the City of London’s first experience with Ranked Choice Voting (RCV), to provide an overview of the 2018 Municipal and School Board Election, and to describe next steps towards planning the 2022 election.

Municipal Elections require extensive resources and planning. The *Municipal Elections Act, 1996* (the “Act”) directs that Municipal Elections are the responsibility of the Clerk. New amendments to the Act mean that preparations for Municipal Elections are continuous throughout non-election years. The City of London 2018 Municipal and School Board Election required approximately two years of preparation. Although the preparations for managing the election process are similar across the province, each municipality has unique procedures informed by best practices and past experience. The City of London Municipal Election was administered by the City Clerk and the Elections Team. The Elections Team included City Clerks’ staff and staff leads from areas essential to the administration of the Municipal Election. The Elections Team

started meeting weekly early in 2017 to coordinate, plan and implement all aspects of the Municipal Election, including significant work with the vendor selected to provide RCV-capable voting equipment and technology. The City Clerk's Division was able to successfully administer Ontario's first Ranked Choice Voting election thanks to significant staff dedication and collaboration from across the Corporation. In conducting a post-election evaluation, the Civic Administration identified several key aspects of the election administration that should inform decisions regarding future City of London municipal and school board elections:

- Communication and Voter Engagement;
- Voters' List;
- Election Signs;
- Voting Locations;
- Accessibility;
- Voting System and Service Provider;
- Ranked Choice Voting.

DISCUSSION

Communication and Voter Engagement

One of the most important aspects when introducing a new process is to ensure that those individuals that will be participating in the process have been given sufficient information to fully engage in the process. The Elections staff believed that this would be key with the introduction of Ranked Choice Voting.

It was important that we communicated with and educated the public to ensure to the best of our ability, that the candidates and the community were aware of the change in the voting process. In response, Elections staff held two candidate information sessions, attended over 160 community events throughout March to September 2018 and conducted demonstrations for the media. An enhanced communication effort through the media, the City's website, billboards and bus advertisements throughout the City was also undertaken with the assistance of a seconded member of the City's Communications staff who was dedicated solely to the election for a year.

Setting expectations as to how the results would be released was also key as the results would be released much later and in a different format from that of a first-past-the-post election. Given that in a ranked ballot election, all results must be counted in order to determine the 50 percent + one vote threshold, poll by poll reporting was not possible. In addition, given that it was important to be transparent and clear how the transfer of votes occurred in subsequent rounds, the City Clerk chose a single candidate elimination process. For example, in the Mayor's race, we had fourteen candidates, resulting in fourteen rounds of counting. To address these concerns the Elections staff met with the media to provide detailed information as to what to expect on election night and the day after. We also increased our presence on social media platforms throughout the count process to update the media and the public on what was happening and what to expect next. Our information sessions held throughout the community also addressed the timing of results.

The enhanced communication protocols for the 2018 Municipal Election was very labour intensive, with all the Elections staff and all Managers in the City Clerk's Office working evenings and weekends attending events, including festivals, community meetings and meetings of organizations. This process began in March and continued until mid-October.

We believe, based on the response from the elector at the Polls that generally speaking the public understood there was a change in the election process, with most electors (based on our analysis of the Mayor's race) choosing to rank their candidates.

Voters' List

The Municipal Property Assessment Corporation (MPAC) maintains owner and occupancy information in order to facilitate the creation of a complete and accurate municipal Voters' List. MPAC has the legislative responsibility of conducting enumeration and producing the Preliminary List of Electors (PLE) for each municipal election in Ontario. In accordance with section 19 of the *Municipal Elections Act, 1996*, the PLE is used by municipalities to create the final Voters' List.

Since the 2010 Municipal Election, MPAC no longer conducts their enumeration through mass mail out or by physically attending buildings. In 2010, MPAC introduced an online voter look-up tool (www.voterlookup.ca). The public can use this tool to confirm with MPAC if their information is accurate and complete on the PLE prior to the information being sent to the municipality for the creation of the official Voters' List. In order to provide an accurate database, MPAC maintains public information in non-election years through regular updates applied to the property assessment database, land titles/land registry changes, mailing address changes, school support changes, and new roll updates. The City of London does not conduct enumeration activities prior to receiving the PLE, and therefore, it is not possible to identify missing information or issues prior to receiving it from MPAC. Following the 2014 Municipal Election, the Civic Administration noted that large multi-residential rental buildings that were previously on the Voters' List were no longer included or missing tenant names in the PLE received from MPAC. In advance of the 2018 PLE, the Civic Administration consulted MPAC regarding these concerns with the PLE. According to MPAC, the buildings affected had recently undergone conversions to condominium units. MPAC indicated that, historically, when they are presented with a condominium conversion plan, the existing tenant names are deleted from the database in anticipation of the units being vacated for new condominium owners and MPAC would become aware of these new owners through the standard sales transaction process. However, it appears that instead of these units being sold, many of the new condominiums remained tenanted with the same persons who had occupied the units before they were converted. This scenario resulted in missing tenant names from London's PLE.

The Civic Administration, together with MPAC, worked to identify multi-residential buildings (7 or more units) in the City of London that had recently undergone condominium conversions. Since 2010, approximately 47 complexes have been converted to condominiums, affecting 6,949 individual units and approximately 5,000 electors.

The PLE is typically provided to the municipality by August 1 of an election year, at which time the Clerk is permitted to correct any obvious errors. MPAC's voter look-up site was actively promoted from April – September through a direct link on the City's website.

In order to try and mitigate the data gaps in voter information, the Elections Office prompted tenants to get their information on the PLE by mailing Voter Enumeration Forms throughout the month of August to residential buildings potentially affected by a condominium conversion. Approximately 1,054 residents in the City of London completed and returned this form to the Elections Office before October 22, 2018. Our dedicated Corporate Communications Specialist set up targeted location-based advertising for these buildings in addition to areas with historically low voter turnout. This included internet advertisements prompting people to get on the list through our online portal or check their voting location.

Between the receipt of the PLE from MPAC on August 1, 2018 and the production of the official Voters' List on September 4, Elections Office staff completed 34,635 changes and revisions to the PLE. Once voterlookup.ca was no longer receiving updates of eligible electors, the Elections Office promoted an online and in-person process for electors to register their information on the City of London Voters' List.

Missing tenant information was the main issue identified by Elections staff when making amendments to the PLE. The City of London is hoping MPAC can leverage this

information to identify vacant units, and potentially find tenant names for them in the National Register of Electors (Elections Canada) for the production of the 2022 PLE.

In total, there were 66,900 changes made to the PLE and Voters' List after it was supplied by MPAC. Of the total changes to the Voters' List, the majority were completed by Elections staff as part of the data cleansing process – correcting issues such as duplicates and invalid roll numbers. The next largest source of changes were the 17,418 revision forms filled out by electors prior to or during the Election to either add or correct information on the Voters' List. 14,851 of these forms were entered by Elections staff between October 23, 2018 and November 21, 2018. Below is a summary of changes to the 2018 Voters' List:

Change Source	Change Count
Election Office Data Cleansing	29,876
Revision Form	17,418
Online Voter Registration	10,848
Long Term Care Resident List	5,980
Direct Elector Changes	1,395
Enumeration Forms	1,054
Get on the List Web App	329
Grand Total	66,900

Table 1: Voters' List revisions summary

Multiple municipalities in Ontario required substantial corrections to their PLE supplied by MPAC. In response, some municipalities passed resolutions to find solutions to this issue. The City of Hamilton released a resolution on January 3, 2019 that seeks a transformational solution to the way that the Voters' List is created and managed. The resolution outlines the City of Hamilton's support for re-establishing the multi-stakeholder working group to explore and identify ways to create and maintain the Voters' List for municipal elections. The City of Hamilton is looking to the working group to find resolutions on such matters as incorrect names on the PLE, missing buildings, and electors who completed revision should be but were not on the Voters' List.

On January 15, 2019, the Brantford City Council passed a resolution to review the process and maintenance of the Voters' List used for their municipal elections to address multiple concerns including missing and incorrect voter information and missing multi-residential dwellings.

As per the *Municipal Elections Act, 1996*, municipalities must complete all revisions to the Voters' List within 30 days after Voting Day and forward a copy of these changes to MPAC. Once all municipal Voters' List revisions have been received and processed, MPAC will begin analysis to determine overall accuracy of the 2018 PLE and will be reporting results in 2019.

As municipalities and MPAC work through these issues and concerns, the City of London will continue to utilize information from existing databases and departments in an attempt to improve voter data accuracy for 2022.

Election Signs

One of the strategies in the City of London Strategic Plan aimed at “Leading in Public Service through open, accountable, and responsive government”, was to explore opportunities for electoral reform through election signage. A new Election Sign By-law was adopted on November 14, 2017. The new by-law incorporated feedback provided by both the general public and the election candidates from the 2014 Municipal Election. The most common complaints related to the length of time election signs were posted, proximity of election signs to intersections, and election signs interfering with sight lines.

The following changes were incorporated into the new by-law to address those complaints:

- 1. Clearly defining election sign restrictions on all properties.
- 2. Restricting the earliest date for the placement of election signs to Nomination Day in the year of a regular election, excluding campaign office signs.
- 3. Requiring election signs to be removed no later than ninety-six (96) hours following the day of the election.
- 4. Prohibiting use of the City’s logo or the City’s Municipal Election logo on election signs.
- 5. Clarifying election sign placement at intersections.
- 6. Requiring election signs of the same candidate to be at least 10 metres apart.
- 7. Restricting election signs from being placed outside the ward(s) where a candidate is running for office, excepting elections signs placed within 50 metres of an adjacent ward.

The Civic Administration also refined the various processes associated with the handling of public inquiries and complaints regarding election signs, developing regulations under sections 5.2 and 5.3 of the by-law. Elections staff worked with the Municipal Law Enforcement Division to streamline the process for tracking complaints and their resolution. Election sign complaints and queries were tracked and submitted using Customer Relationship Management (CRM) software.

A total of 221 election sign complaints relating to the Municipal Election were received by the Elections Office and tracked in CRM from April – November 2018. Below is a summary of complaints and questions received by month for 2018. The Civic Administration will be providing an in-depth review and report of the Election Sign By-law at a later date.

Month	Municipal Sign Complaint/Question	Provincial Sign Complaint/Question	Grand Total
Apr	4	2	6
May	11	70	81
Jun	9	14	23
Jul	14	1	15
Aug	60		60
Sep	62		62
Oct	55		55
Nov	6		6
Total	221	87	308

Table 2: Election sign complaints by subject/month

Voting Periods and Locations

The 2014 London election had 166 Voting Day polls and 12 advance polls. The number of polls was increased in 2018 to 199 Voting Day polls to accommodate both population growth and the potential for longer wait times with the introduction of Ranked Choice Voting.

The City of London conducted a vote-anywhere Advance Vote on October 4, and October 6 – 13 for a total of 7 advance vote days held at 12 unique voting locations across the City. New for 2018, the Civic Administration added two advance voting polls at University Hospital and Victoria Hospital held on Thursday October 11. Western University started a fall reading week during their 2017-18 school year, which occurred from October 9 to October 12, 2018. Due to the break, an additional earlier Advance Vote day was scheduled on October 4th so students could vote prior to the start of the reading week.

Elections staff collected information and feedback on each voting location’s accessibility, parking, transit, room size, voter turnout, and signage from election workers, voters, and candidates. This information will inform voting location selection and assignment for the 2022 election.

Election Workers

Including Advance Vote and Voting Day, there were 1,906 worker positions required to administer the election. Workers could apply in person at the Elections Office, online, or at one of the two job fairs hosted by the Elections Office at the North London Optimist Community Centre on June 14, 2018 and at the Sherwood Forest Library on July 19, 2018. The online application was available on the City's website from May 1, 2018 until October 19, 2018. A total of 2,733 election worker applications were received by the Elections Office.

Effective and comprehensive training of election workers was essential to the operation of each voting place and the administration of the election as a whole. Throughout the months of September and October, 75 training sessions were conducted for an approximate total of 150 hours of training. There were 9 individual training programs developed to provide specialized exercises based on position and voting date. A total of 1,877 people attended training. Hiring almost 2,000 reliable workers presents a significant challenge to the administration of Municipal Elections. Although the hiring processes was initiated by the Elections Office well in advance of the election, between May 1 and October 22, approximately 501 election workers quit or were otherwise unable to work and ultimately had to be replaced before or on Voting Day.

Accessible Election

Accessibility was identified early in the election planning process as a priority for the 2018 Municipal Election. In 2017, the City Clerk's Office developed strategies and initiatives to identify, remove and prevent barriers that affect voters and candidates with disabilities during the election process by means of the City of London's Accessible Election Plan 2018. The Plan was developed by members of the City Clerk's Elections Team, in consultation with the Accessibility Advisory Committee and the City's Municipal Policy (AODA) Specialist. Leading up to the election, the proposed Plan was submitted to the Accessibility Advisory Committee for review and comment. This document identified barriers that could be experienced by people with disabilities during an election, and identified actions to address each barrier. The Plan established measurables by which to evaluate the effectiveness of each initiative. As indicated through the attached update to the Accessible Election Plan (Appendix 'A'), there were numerous accessibility initiatives undertaken by the Elections Office leading up and into the 2018 election. Election Worker Training stressed the importance of removing physical barriers to the entrance of the poll and ensuring ample space for maneuvering mobility aids. All voting places were deemed accessible according to the accessibility audit, and few complaints were received regarding accessibility issues. Vote by mail provided voters with the ability to mark their ballot from home at their convenience. In the event that a voter was unable to complete the vote by mail process on their own, Elections Office staff scheduled 45 home voting visits, where, upon request, a ballot was provided to the voter to mark in their home and given to the staff member to return to the drop-off centre.

Communicating the changes to the way London votes in a manner that was effective and appropriate for all citizens of London was a priority for the Elections Office. To reach persons with disabilities, the Elections Office investigated alternative communication methods and emphasized the availability of election information in alternate formats. For the first time, the Elections Office offered ballot instructions and candidate lists in braille and large print at each Advance and Voting Day poll. The Civic Administration also integrated accessibility information in election presentations and communications wherever possible. Before the next municipal election, a review and update of accessible and alternative communication formats will take place to ensure that all citizens of London are able to effectively participate in the election.

Voting Technology and Service Provider

The City Clerk’s Office commenced an open and public Request for Qualifications (RFQual) on July 4, 2017, seeking a service provider for a ‘Fully Managed Election Solution’. The RFQual sought interested qualified consultants to provide for a fully managed (hardware/software) turnkey election management solution which would include ranked ballot vote tabulation capabilities, election management software, in-poll tabulation for Voting Day and associated support for the 2018 Municipal Election.

Upon closing of the RFQual, there were no interested vendors. It was at this time the Civic Administration sought informal demonstrations of hardware and software capabilities from vendors that have partnered with the City of London in the past. As a result, at the end of this process, Dominion Voting Systems was awarded the contract to provide Vote Tabulation System and Election Software for the Municipal and School Board Elections in 2018, with the option for the City to extend the contract for services for any by-elections and the 2022 and 2026 elections.

A contract for hardware rental, software licence and services with Dominion Voting Systems was executed on December 15, 2017. The contract includes the following:

- Vote Tabulators – 225 units
- Accessible Voting Ballot Marker Device – 12 units (Advance Vote)
- Ballots
- Ballot Boxes
- Election Management Software System
- Ranked Ballot Module Licence
- Mobile Printing Module (Advance Vote)
- Professional Services and Support

The total cost for the above-noted vendor services for the 2018 Municipal Election was \$470,542 plus HST.

Included in the February 2018 Municipal Election Update Report was an initial estimate of supply costs provided by Dominion Voting Services. This estimate included ballot boxes, secrecy folders, marking pens, security seals, paper rolls for vote tabulators, shipping and handling, and storage devices at a total cost of \$49,150 (in 2014, supply costs were approximately \$35,000). The actual cost for supplies for the 2018 Municipal Election was \$24,782. By outsourcing the procurement of certain supplies to other vendors, the Civic Administration saved \$24,368 in supply costs. The Civic Administration slightly increased the number of ballots based on the Voters’ List, therefore bringing the total savings to \$19,234.

Municipal Election Cost Analysis

The total cost of the 2014 Municipal Election was \$1,321,056. In 2018, the Municipal Election’s total cost is \$1,779,149. The Elections Office noted along With Ranked Choice Voting, the overall increase in costs can be attributed to rising supplier costs, an increase in vote tabulator machines to meet the demands of a growing population, as well as a planned increase to temporary staff complement in the Elections Office in order to complete the regular election tasks.

Below is a summary of Ranked Ballot costs in comparison to the estimates provided in early 2017.

Election Item	Estimate of Ranked Balloting Costs	Actual Ranked Balloting Costs	Notes:
Consultation	150,000	202,108	This includes expenditures in 2017 for our consultation phase. The total cost in 2018 for ranked ballot outreach and education was \$141,108.

Election Item	Estimate of Ranked Balloting Costs	Actual Ranked Balloting Costs	Notes:
Tabulators	-	16,900	The cost of additional 13 vote tabulators attributed to Ranked Choice Voting.
Paper Ballots	42,500*	12,500	Additional ballots were required to accommodate a more fulsome logic and accuracy testing of ranked choice ballots and to ensure adequate quantities at the poll.
Vendor Cost	10,000**	12,000	This is the cost of the ranked ballot licence with Dominion Voting Systems.
Auditor	-	147,752	In the absence of provincial certification of ranked ballot voting equipment, the auditor provided verified processes, procedures, and tested the algorithm to provincial regulation.
Staff Resources	70,000	82,686	
Poll Workers	50,000	41,500	One additional election worker was assigned at each voting location during on Voting Day to provide additional efficiency. Elections Office staff were assigned polls on Advance Vote days for this purpose.
Total	\$322,500	\$515,446	

Table 3: Ranked Ballot Costs

* Cost is based on ranking a maximum of three candidates, legal sized ballot, printed double-sided. If the number of candidates or rankings increase, the number of ballots will increase and so will the cost.

** Not including the algorithm development and testing in results software. At the time the estimate was presented, the Civic Administration was requesting certification from the Province. In the absence of provincial certification, Civic Administration procured an auditor for ranked choice voting.

Independent Analysis

Given that there are no federal or Provincial standards to test voting and vote-counting equipment in Canada, the City Clerk requested Provincial representatives to consider certifying vote-counting equipment for this Ranked Choice Vote election. Despite these efforts, the Provincial representatives indicated that the Province would not be involving themselves in the certification. The City Clerk then requested funding from the Province to assist with the cost of retaining an auditor with expertise in ranked vote elections to monitor and review our processes and procedures. No Provincial funding was provided to the City of London.

As 2018 was the first year municipalities were permitted to use ranked ballots, the Civic Administration procured an outside evaluation by industry experts to ensure the

accuracy and integrity of the 2018 Municipal Election. The City retained Freeman, Craft, McGregor Group, Inc., (FCMG), a Florida-based corporation with expertise in testing and evaluating Ranked Choice Voting (RCV) elections and software. FCMG was specifically retained to conduct an independent audit of the RCV results utility and its functionality according to specifications. FCMG also evaluated the City's overall process and related procedures for tabulating election results. At a minimum, the evaluation was contracted to assist with the following:

- a mock election and functional test of the ranked choice voting system;
- the acceptance test for system and equipment;
- conduct of a logic and accuracy (L&A) test; and
- observation of tabulation and a post-election evaluation.

Through extensive testing and review, FCMG found that the election system produces accurate results data and the City's tabulation procedures are appropriate and adequate to determine official winners. Listed below is a summary of the key findings by FCMG. All evaluation reports, recommendations and key findings produced by FCMG are attached to this report as Appendix 'B'.

Mock Election

To test procedures, the City conducted a mock election from March 28 – 29, 2018 with FCMG. The mock election enabled Elections staff to fully test all new procedures prior to Voting Day. During the mock election, ballots were marked with a pre-determined outcome to ensure accuracy and reliability of the ranked ballot tabulation process as it relates to voting and vote-counting equipment. The exercise confirmed that proper procedures were in place to determine RCV results and the Election Management System (EMS) functioned with reliability and accuracy.

Acceptance, Logic and Accuracy Testing

Upon receipt of the equipment from Dominion, the City conducted extensive acceptance testing with FCMG to verify that the equipment received, and the software and firmware installed, were identical to the system prescribed in the contract between the City and Dominion. At a minimum, the acceptance test must verify that election equipment is configured to meet all requirements in the City's rules and procedures and components are undamaged and operational.

Following acceptance testing, the Civic Administration and FCMG conducted Logic and Accuracy testing of all equipment used in the 2018 election. The objectives of Logic and Accuracy testing are to verify that all of the appropriate ballots are properly read by each tabulator and that the Election Management System can consolidate and process the data from all tabulators, accurately perform the tabulation, and correctly report results.

Upon completion of Logic and Accuracy testing, FCMG concluded that the Election Management System and associated hardware performs accurate tabulations. The tabulated totals on each of the reports generated during testing matched expected totals. Audits of sample RCV results exports showed that the contents of the files were identical to those of the marked ballots and that the ability of the system to produce accurate RCV election results meets expectations. Additionally, FCMG determined that the procedures developed by the City to tabulate results are adequate to the task.

Based on testing and a review of system audit logs, FCMG's final observations conclude that the Election Management System and associated equipment used in the 2018 election accurately tabulated and reported results following the rules and procedures for RCV tabulation adopted by the City of London. Furthermore, the system records the ballots, ballot images, interpretations, export files of the cast vote records, and detailed reports of the ranking calculations to provide adequate transparency and sufficient evidence for the City to successfully defend against any challenges to the integrity of the tabulation process and election results.

Results Tabulation

At 8:00 PM. on election night the polls closed and all tabulators were returned to City Hall from 199 polling places across the City by 9:30 PM. After 8:00 PM. The Civic Administration began to upload the memory cards from all voting tabulators. As each memory card was uploaded, the number of ballots included in the upload was verified against the results report tape printed from the tabulator. Memory cards were uploaded until all card data from all machines was transferred to the primary EMS laptop. Using the complete results data, the Civic Administration first determined if any candidate in any race had met or exceeded the established threshold of votes needed to be elected (50% +1 vote). The Clerk was able to declare unofficial winners in 8 of the RCV races on election night based on first-choice vote totals. In the remaining 7 RCV races, a definitive winner could not be identified, and additional rounds of tabulation were required. On election night, only first choice results were tabulated. On October 23, 2018 at 10:00 AM. Elections staff began subsequent rounds of RCV tabulation for races that had not been determined the night before. The results were printed for each office and delivered to the City Clerk where they were proofed one more time before the winner was announced and posted on the City’s website. All unofficial results were published by approximately 3:00 PM. on October 23, 2018. On October 29, 2018 the official results were determined by the City Clerk and posted publicly on the City’s website.

Ranked Choice Voting Outcomes and Analysis

There are numerous statistical conclusions that can be drawn from analyzing RCV results produced from the Election Management Software. The following analysis was conducted using ballot data for the 2018 Mayoral race to provide insight into City of London voter behaviour as it relates to RCV. This analysis was limited to the Mayoral race, as this contest provides the most consistent data set across all wards. The most significant statistic is the number of voters who participated in the option to rank up to three candidates. As seen in the table below, 30% of voters ranked only one candidate, leaving their other choices blank. 22% of voters ranked a first and second choice only and 47% ranked three candidates.* Of the 45,476 ballots with votes for 3 candidates, 1,694 ranked the same candidate for all three choices.

Candidates Ranked	Vote Count	%
Ranked 1 / Choice 2 & 3 Blank	29,428	31%
Ranked 2 / Choice 3 Blank	21,534	22%
Ranked 3 Candidates	45,476	47%
Total	96,438	100%

Table 4: Number of Candidates Ranked (overvotes and blanks removed)

Another analysis was conducted on the number of “non-transferable” ballots versus the total number of ballots cast for Mayor. An RCV ballot is “non-transferable” in the first round if the entire contest is blank or if there is an overvote so that it is impossible to determine which candidate the voter ranked as the highest (in accordance with O.Reg 310/16). An overvote occurs when multiple votes are cast within a single rank. As shown in the table below, there were a total of 1,067 overvotes across all rankings for Mayor, with 859 overvotes occurring in the first ranking.

Overvotes	Vote Count
Overvotes in rank 1	859
Overvotes in rank 2	166
Overvotes in rank 3	42
Total Overvotes	1,067

Table 5: Overvotes in Mayor race

** If the ballot was marked to indicate the rankings among the candidates, but there was no mark that indicated one or more of the rankings that could be assigned, the relative rankings that were marked indicated which candidate was ranked as the highest, in accordance with O.Reg 310/16.*

In total, blank ballots and overvotes in the first rank represent 1.33% of the total votes cast for Mayor.

Ballot Type	Vote Count	%
Blank ballots	442	0.45%
Overvotes in rank 1	859	0.88%
Total Continuing Ballots	96,646	98.67%
Total Votes Cast	97,947	100%

Table 6: Vote totals for Mayor race

Conclusion and Next Steps

Planning for the 2022 Municipal and School Board Election is currently underway. The information gathered during and after the 2018 Municipal Election will provide the Civic Administration with the ability to seek ways to improve the vote process, results reporting, and overall accessibility for all electors in the City of London. Collaboration with other municipalities to monitor election trends and technologies will be taken into consideration during the planning phases for the next election. The Civic Administration will continue to work towards improvements in Voters’ List management, internal processes, and voter engagement. At a later date, the Civic Administration will bring forward a report providing information regarding the 2022 Municipal Election for Council’s information.

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Appendix 'A'
Accessible Election Report

ACCESSIBLE ELECTION REPORT 2019

City of London 2018 Municipal
Election

January 21, 2019

VOTES



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City of London Accessible Election Report 2018

Introduction

The City of London is committed to making municipal elections accessible to all citizens of London – including voters, candidates, and employees who participate in the election administration. The City Clerk's Accessible Election Plan was posted on the City's website on December 22, 2017 in accordance with section 12.1 of the *Municipal Elections Act, 1996*. The City of London's Accessible Election Plan 2018, supports and enhances the City's policies, multi-year Accessibility Plan and commitment to respond to the needs of persons with disabilities.

Purpose

The focus of the Accessible Election Plan 2018 is to:

- a) ensure that electoral services are accessible to all voters and candidates;
- b) identify and eliminate barriers for persons with disabilities; and
- c) create a positive and inclusive voting experience.

Plan Development and Review

The City of London's Accessible Election Plan 2018 was developed by members of the City Clerk's Elections Team, in consultation with the Accessibility Advisory Committee and the City's Municipal Policy (AODA) Specialist. Leading up to the election, the proposed Plan was submitted to the Accessibility Advisory Committee for review and comment. This document identified barriers that could be experienced by people with disabilities during an election, and identified actions to address each barrier.

The following criteria were considered in the development of this Plan:

Policies and procedures must be consistent with the principles of the [Municipal Elections Act, 1996](#), the [Ontarians with Disabilities Act, 2001](#), and the [Accessibility for Ontarians with Disabilities Act, 2005](#), and respect the dignity and independence of persons with disabilities.

Accessibility was identified early in the election planning process as a priority for the 2018 municipal election. In early 2017, the City Clerk's Office developed strategies and initiatives to identify, remove and prevent barriers that affect voters and candidates with disabilities during the election process. The Plan established measurables by which to evaluate the effectiveness of each initiative. As indicated through the attached update to the Accessible Election Plan, there were numerous accessibility initiatives undertaken by the Elections Office leading up and into the 2018 election.

A total of 1,895 election workers were given accessibility training and all 113 candidates were provided with accessible campaign guidelines and materials. During election worker training, ample time was dedicated to explaining appropriate conduct for voters requiring assistance. Every election worker received reference materials with tips and City of London standards for assisting voters with disabilities. Training stressed the importance of removing physical barriers to the entrance of the poll and ensuring ample space for maneuvering mobility aids. All voting places were deemed accessible according to the accessibility audit, and few complaints were received regarding accessibility issues. In the future, improvements to the communication regarding the availability of alternate accessible entrances to voting places may be made.

Vote by mail provided voters with the ability to mark their ballot from home at their convenience. This allowed increased rights of privacy to voters with disabilities whom may find voting at traditional paper based voting places more difficult. In the event that a voter was unable to complete the vote by mail process on their own, Elections Office staff

scheduled home voting visits, where, upon request, a ballot was provided to the voter to mark in their home and given to the staff member to return to the drop-off centre.

Communicating the changes to the way London votes in a manner that was effective and appropriate for all citizens of London was a priority for the Elections Office. To reach persons with disabilities, the Elections Office investigated alternative communication methods and emphasized the availability of election information in multiple formats. For the first time, the City offered ballot instructions and candidate lists in braille and large print at each advance and voting day poll. City staff also integrated accessibility information in election presentations and communications wherever possible. Before the next municipal election, a review and update of accessible and alternative communication formats will take place to ensure that all citizens of London are able to effectively participate in the municipal election.

The City Clerk's Office will continue to learn, develop and adjust the Accessible Election Plan 2018 in order to meet the needs of persons with disabilities. This Plan will be reviewed and updated as new opportunities are identified or become available.

Post-Election Report

Following the election, the *Municipal Elections Act, 1996* requires the City Clerk to submit a public report concerning the identification, removal and prevention of barriers that affect voters and candidates with disabilities. The City Clerk's post-election report is posted on the City's website in a format accessible to persons with disabilities and may be distributed to disability groups and other stakeholders, upon request.

Legislative Requirements – *Municipal Elections Act, 1996*, as amended

The City Clerk is responsible for conducting municipal elections and establishing policies and procedures to ensure all voters have the opportunity to fully participate in the 2018 municipal election.

The *Municipal Elections Act, 1996*, as amended states the following:

- 12.1(1)A clerk who is responsible for conducting an election shall have regard to the needs of electors and candidates with disabilities. 2009, c. 33, Sched. 21, s. 8 (8).
- 12.1(2)The clerk shall prepare a plan regarding the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the plan available to the public before Voting Day in a regular election. 2016, c. 15, s. 11.
- 12.1(3)Within 90 days after voting day in a regular election, the clerk shall prepare a report about the identification, removal and prevention of barriers that affect electors and candidates with disabilities and shall make the report available to the public. 2016, c. 15, s. 11.
- 41(3) The clerk shall make such changes to some or all of the ballots as they consider necessary or desirable to allow electors with visual impairments to vote without the assistance referred to in paragraph 4 of subsection 52 (1). 1996, c. 32, Sched., s. 41 (3); 2001, c. 32, s. 30 (1).
- 45(2) In establishing the locations of voting places, the clerk shall ensure that each voting place is accessible to electors with disabilities. 2009, c. 33, Sched. 21, s. 8 (23).

Accessible Customer Service

The City Clerk's Office is committed to providing quality goods and services that are accessible to all persons in accordance with the City of London Accessible Customer Service Standards and in compliance with the customer service standards of the *Accessibility for Ontarians with Disabilities Act, 2005*. In fulfilling our mission, the City Clerk's Office will provide services that respect the dignity and independence of persons with disabilities.

Definitions and Barrier Types

Disability: The *Accessibility for Ontarians with Disabilities Act, 2005* defines “disability” as follows:

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- (b) a condition of mental impairment or a developmental disability;
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- (d) a mental disorder; or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*.

Attitudinal Barriers: Barriers result when people think and act based on false assumptions. Example: receptionist talks to an individual’s support person because they assume the individual with a disability will not understand.

Information and Communication Barriers: Barriers created when information is offered in a form that suits some, but not all, of the population. Example: print that is too small for some people to read and public address systems that alert only people who can hear the message.

Technology Barriers: Barriers occur when technology, or the way it is used, cannot be accessed by people with disabilities. Example: websites that are not accessible to people who are blind and require the use of screen reader software.

Physical and Architectural Barriers: Physical barriers or obstacles that make it difficult for some people to easily access a place. Example: a door knob that cannot be turned by a person with limited mobility or strength, or a hallway or door that is too narrow to allow a person who uses a wheelchair to pass through safely.

Organizational Barriers: Occur when policies, practices or procedures result in some people receiving unequal access or being excluded. Example: A hiring process that is not open to people with disabilities.

Key Areas of Focus in the Elections Process

The Elections Office has identified the following five key areas of focus within the election process to prevent and remove accessibility barriers:

1. Elections Communication and Information
2. Voting Places
3. Voting Methods
4. Recruitment and Selection of Election Workers
5. Assistance for Candidates

Feedback

The City Clerk welcomes feedback to identify areas where changes and improvements can be considered and ways in which the City can improve the delivery of an accessible election. The feedback process provides the City Clerk’s elections staff with an opportunity to carry out corrective measures to prevent similar recurrences; address training needs, enhance service delivery, and offer accessible methods of providing election services.

Please provide us with your feedback so that we can continuously improve the accessibility of London’s municipal elections. Feedback can be submitted to the Elections Office through a variety of methods including:

Telephone	519-661-4535
In Person	300 Dufferin Ave, 3 rd Floor
Fax	519-661-4892
Mail	300 Dufferin Ave, 3 rd Floor, Elections Office, London, ON N6A 4L9
Website	www.london.ca/elections
Email	elections@london.ca

The London Accessibility Feedback Form can be found on the City of London's website. Additionally, staff can, upon request, complete and submit the feedback form on behalf of a person with a disability. Each completed form is reviewed by the City Clerk’s Office.

If you require this information in an alternate format, please contact the Elections Office.

City of London Accessible Election Plan

Outcomes 2018

Elections Communication and Information Initiatives

- Provide election information in alternative formats and through multiple channels
- Provide an informative and accessible election website

Strategy	Outcome
Ensure election information is available in clear, simple language.	All election information provided in clear and simple language – available in alternate formats upon request.
Continuously update election information posted on the City's website to reflect the most recent information, and temporary disruptions. Enhance the City's "Where Do I Vote?" web application to provide accessibility information about voting places.	5,560 webpage views to "Where do I Vote?" webpage
Ensure election web pages are W3C Consortium WCAG 2.0 Level A compliant.	Compliant.
Establish and continuously update a dedicated accessibility section on the election's website that provides information on the initiatives undertaken by the City Clerk's Office.	3,229 webpage views to Accessible Election information ~51 inquiries related to election accessibility 4 social media posts directly related to election accessibility Accessible Voting webpage created in 2014, updated September 2018.
Make feedback and accommodation request forms available through website.	No requests received via feedback form.
Present information about election accessibility to stakeholder and community organizations.	8 presentations where accessible equipment was demonstrated 3 organizations requested accessible demos
Produce a "How to Vote" pamphlet in English and additional languages and make the booklet available in both print and alternative formats.	~4,600 pamphlets distributed Pamphlets produced in English and Braille. Downloadable version available on london.ca/elections
Produce an accessible "How to Vote" video and post it to the City's website.	6,102 views to Marking the Ballot webpage
Produce a city-wide mail out that outlines key election information.	~150,000 households reached

Voting Places Initiatives

- Ensure all voting place access routes and entrances are clearly identified
- Ensure all voting place owners and managers are aware of accessibility requirements
- Provide a contact centre to deal with accessibility issues, concerns or complaints
- Provide information on the accessibility features available at each Voting Place
- Ensure all voting places are accessible to voters with disabilities

Strategy	Outcome
Review and update Voting Place Accessibility Checklist.	Updated March 2018. See Appendix "A"
Review all potential voting places with consideration for public transit access; provide information to voters on public transit access.	179 voting places located directly on a public transit route less than 250 meters from public transit stop

Strategy	Outcome
Review all potential voting places with consideration for public transit access; provide information to voters on public transit access.	12 voting places located greater than 500 meters from a public transit route
Review all potential voting places for accessibility including two (2) accessible parking spots near the closest entrance to the poll(s).	202 voting places with accessible parking spots
All voting places to be inspected prior to Voting Day to ensure accessibility for all voters.	273 locations inspected
Where possible, the accessible entrance is to be the same as the main entrance.	145 voting places where main entrance is also the accessible entrance. 44 greeters hired to increase accessibility of entryways
In the event of disruptions to service or unforeseen circumstances that affect the accessibility of voting places during the Advance Vote or on Voting Day, notices of disruption will be posted as soon as possible: <ul style="list-style-type: none"> - on the City's website - Facebook: London Votes, - Twitter: @LondonVotes - at the site of the disruption When applicable, a media advisory will be issued.	No disruptions to services on Voting Day or Advance Vote days.
Ensure voters with accessibility needs are directed to the accessible voting entrance by prominent signage.	9 Voting places where additional directional or parking signage was provided by Elections Office for accessible purposes
Use large-print signage at voting places; train election workers to communicate with people who are blind or have low vision. Consult with Accessibility Advisory Committee on best practices.	Large print signage provided at all voting places.
Notify all voting place owners and managers of legislative accessibility requirements in order to prevent last minute changes to voting places.	211 Voting place managers notified.
Welcome the use of support persons and service animals in voting places. Educate elections staff on appropriate communication with voters and service animals.	Information provided in election manual. 1,895 manuals distributed.
Establish a website link to an accessibility feedback form so an elector who encounters an accessibility issue can contact Election or Accessibility staff: Email: elections@london.ca Use the received feedback to ensure that voting places are accessible to voters, as required by the <i>Municipal Elections Act, 1996</i> .	42 accessibility related emails received to elections@london.ca
Provide details of accessibility features available to voters and candidates at Advance Vote locations on the City's website. Provide details of accessibility features available at voting places on Voting Day on the City's website.	2,575 webpage visitors to Accessible Election information Accessible Voting webpage updated September 2018.

Voting Methods Initiatives

- Provide accessible voting opportunities
- Provide voting opportunities in institutions and long-term care facilities
- Provide assistance to voters with disabilities as requested
- Provide instructions on the use of accessible voting equipment

Strategy	Outcome
Provide voters with the option to vote by mail or vote by proxy.	~100 proxy forms distributed 40 proxy forms certified 115 Vote by Mail applications
Review ballot design to increase legibility; Increase legibility of ballots through use of accessible font styles and sizes, appropriate case usage, and colours, where possible.	Accessible ballot design reviewed by staff and produced by Vendor. Accessible equipment and ballot demonstration provided to Accessibility Advisory Committee September 2018. 211 sets of Braille Ballot instructions distributed to all voting places
Provide an accessible ballot-marking device at all advanced polls for independent voting via “sip-and-puff”, the use of paddles, or a tactile device.	12 accessible voting machines — one for each advance polling station. 3 voters used accessible ballot marking device during Advance Vote
Provide magnifiers, pens and paper at all voting places.	1 magnifying sheet per voting place 1 set of pen and paper pads per DRO (680 DROs)
Establish voting places at the following facilities in order to allow eligible residents of the facility the opportunity to vote: <ul style="list-style-type: none"> • any institution in which 20 or more beds are occupied by persons who are disabled, chronically ill or infirmed • a long-term care facility in which 50 or more beds are occupied. 	34 long-term care facilities where a dedicated voting place was established
Upon request, provide voters with the opportunity to vote from anywhere at the voting place (including curbside) with assistance from a Deputy Returning Officer. Upon request, assist the elector with voting or reading of ballot.	45 home voting visits on or before Voting Day
Train Deputy Returning Officers to assist voters with voting process when requested.	698 Deputy Returning Officers trained
Enable voters to swear an oath if they are unable to provide the required identification and/or documentation with a signature.	Declaration of Identity forms available at all 211 voting places. 3 engagement events focusing on Election identification options and elector qualifications
Produce videos that outline the voting process and the accessible voting technologies in use for the election. Videos will include accessible elements and captioning. Post the videos on the City’s website.	4 videos produced regarding the election
Provide pictorial instructions on voting processes at all voting places.	2 pictorial ballot instructions per poll provided to 211 voting places
Host a media promotion event (September 2018) on voting technology, including accessible voting equipment and processes.	6 Accessible demonstrations to specific community groups/organizations

Recruitment and Staffing

- Provide accessibility training to all Voting Day workers who participate in the election
- Ensure the recruitment process for staff is accessible

Strategy	Outcome
Develop an Accessible Election Procedure Manual providing direction on how the City of London will address the needs of persons with disabilities during the election and distribute the manual during training.	1,895 worker manuals distributed
Develop accessibility training and reference materials for all elections staff, including: <ul style="list-style-type: none">• how to interact and communicate with persons with various types of disabilities;• how to interact with persons who use assistive devices or require the assistance of a service animal or support person;• how to use voting equipment and assistive devices to deliver election services;• what to do if a person is having difficulty accessing election information or services.	75 training sessions held that included accessibility training
Require all elections staff and workers to confirm in writing that they have received elections and accessibility training.	1,895 workers trained on accessible standards and voting procedures
Provide accommodations and special services for interviews, upon request.	2 accommodation and special services requests
Ensure the worker's manual and/or other relevant materials are available in an accessible format, upon request.	2 sets of reference materials produced in an accessible format

Assistance to Candidates

- Provide candidates with access to information in alternative and accessible formats
- Provide candidates with information on how to make their campaign accessible to the public

Strategy	Outcome
Provide candidates with references and links to provincial publications, such as: <ul style="list-style-type: none">• Accessible Campaign Information and Communication• Accessible All-Candidates Meetings• Candidates' Guide to Accessible Elections (by Association of Municipal Clerks and Treasurers of Ontario)	3 guides/references focusing on accessible campaigns given to each of the 113 candidates at time of nomination filing
Provide information to each candidate on how to run an accessible campaign at the time of filing nomination papers, and during candidate information sessions.	113 candidates reached
Ensure the candidate guide and/or other relevant publications are available in an accessible format, upon request.	No requests received.
Provide the City of London Voters' List in an electronic format to candidates, upon request.	65 electronic Voters' Lists distributed
Hold candidate information sessions in accessible locations.	2 information sessions held
Provide accommodations and special information services upon request.	1 accommodation and special service request

Appendix 'A'

Voting Place Accessibility Checklist

Voting Place Accessibility Checklist

Ward / Poll:

Date Completed:

VOTING PLACE		
Action Item	✓ / X	Comments
Bus Access		
Stop located within 250m of voting place		
Accessible pathway from bus stop to voting place		
Short distance from stop to Voting Place		
Voting Place Visibility		
Signage visible from all directions		
Pedestrian Crosswalk (if applicable)		
Audible pedestrian signals		
Tactile plates		
Pavement markings clear		
Safe Sidewalks		
Curb cuts present where sidewalk meets roadway		
Sidewalk level		
Obstructions and debris removed		
Lighting		
Sufficient and bright path to the Voting Place		
Marked Accessible Parking		
Accessible parking spots clearly marked on pavement with appropriate signage		
Accessible parking spaces located closest to the accessible entrance		
Accessible Parking Space		
Min. of one (1) accessible parking spot		
Designated marked pathway to sidewalk		
Parking Lot Functionality		
Level ground (i.e free from pot holes)		
Curb ramps or cuts to access building entrance from parking lot		
Route to Facility Entrance		
Route wide enough for wheelchair		
Route free from debris and level ground		
Adequate lighting		
Facility Entrance Accessibility		
Entrance have ramps with handrails		
Door wide enough for wheel chair		
Easy to open or have door opener		
Adequate lighting		
Location of Entrance to the Polling Station		
Location within the Voting Place suitable for assistive mobility aids		
Short walking distance required to vote		

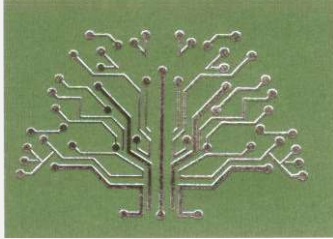
Voting Place Accessibility Checklist

Ward / Poll:

Date Completed:

POLLING STATION		
Action Item	✓ / ✗	Comments
Entrance to Polling Station		
Entrance level with access route		
Ramp or handrails available if necessary		
Non-slip floor		
Adequate lighting		
Doors		
Wide framed doorways		
Doors opened with closed fist		
Poll Station Location		
Entrance close to the poll		
Poll location on same level as entrance		
Elevator available (if applicable)		
Corridors		
Wide enough for wheel chair access		
Free from obstructions		
Adequate lighting and signage		
Washrooms		
Accessible washroom available and nearby		
Adequate room for mobility aids		
Signage		
Large easy to understand signs		
Available along the path of travel from entrance to polling station		
Voting Booth/Table		
Booth low enough for wheel chair access		
Space around booth free from obstructions		
Chairs available		
Ballot Aids		
Magnifying glasses		
Braille ballot template		
Assistive Devices		
Pads of paper and pens		
Voter Assist Terminals (if available) in good working condition		

Appendix ‘B’
FCMG Evaluation and Observation Reports



FREEMAN, CRAFT, MCGREGOR GROUP

Evaluation of Dominion Voting
Systems Democracy Suite 5.4.7.2 and
Procedures Proposed for Its Use by
the City of London, Ontario for the
conduct of the October 22, 2018
Municipal Election.

Prepared April 12, 2018

Post Office Box 1716 – Tallahassee, Florida 32302-1716

Introduction

On April 4, 2017, under the authority provisions of subsections 42(1)(a) and (b) and 42(5) of the Municipal Elections Act, 1996, as amended, the Council of City of London, Ontario (the Council) passed By-Law Number E-182-116, a by-law to authorize the use of vote counting equipment and alternative voting methods that do not require electors to be present at a voting place in order to vote in the 2018 municipal election. The By-Law states:

1. The use of poll optical scanning vote tabulators for the purpose of counting votes at Municipal Elections is hereby authorized.
2. Sections 43 (Advance Votes) and 44 (Voting Proxy) of the Municipal Elections Act, 1996, as amended, apply to the City of London 2018 Municipal Election.
3. The use of touchscreen voting machines for advance voting at all advance poll locations is hereby authorized.
4. The use of voting by mail be provided upon request to qualified voters as an alternative voting method that does not require electors to attend at a voting place in order to vote at Municipal Elections is hereby authorized.

On May 1, 2017, under the authority provisions of subsection 41.2(1) of the Municipal Elections Act, 1996, as amended, the Council passed By-Law Number E-183-143, a by-law with respect to ranked ballot for the 2018 municipal election. The By-Law states:

1. Ranked ballot elections shall be used for all offices on the council for The Corporation of the City of London.
2. An elector is entitled to rank a maximum of three (3) candidates for the office of Mayor and three (3) candidates for the office of Ward Councillor.
3. This by-law applies to all regular elections and by-elections of The Corporation of the City of London.

On December 15, 2017, the City of London, Ontario (the City) executed a contract for hardware rental, a software license and services with Dominion Voting Systems (Dominion). The contract includes the following:

- Vote Tabulators – 225 units
- Accessible Voting Ballot Marker Device – 12 units (Advance Vote)
- Ballots
- Election Products: Ballot Boxes, Secrecy Folders, Marking Pens, Security Seals
- Election Management Software System
- Ranked Ballot Module License
- Mobile Printing Module (Advance Vote)
- Professional Services and Support

On March 20, 2018, the City entered into a contract with the Freeman, Craft, McGregor Group, (FCMG) to provide election consultant and audit services to assist them with their preparation for, and conduct of, the October 22, 2018 municipal election. The schedule of activities and deliverables under the contract is provided as Attachment A to this report.

Objectives

Our contract calls for FCMG to evaluate the accuracy, reliability and usability of the ranked ballot software; evaluate the City's proposed ranked ballot procedures for using the system during the 2018 municipal election; and that we provide reasonable assurance that any weaknesses in the system are mitigated by their proposed procedures. At a minimum, the evaluation will address:

- whether the Ranked Ballot Module utility functions with reliability, accuracy and sufficient usability to allow it to be used with a reasonably low risk of operator error;
- whether the ImageCast Precinct Optical Scan Ballot Tabulator has an acceptable feed rate, accurately handles ballot rejection conditions as determined by the City in procedures, has low levels of ballot rejection errors, and can handle ballots that have been folded; and
- whether the City's procedures for tabulating and displaying results using the Results Tally and Reporting (RTR) software are adequate.

Tasks and Services Performed

From March 27 through 29, 2018 FCMG assisted the City with their mock election and RCV functional test. Goals for this event included:

- allowing City staff to take the system through an end-to-end operation of the system, from preparing the system for an election to opening polling places, voting, closing polls, uploading results, conducting the RCV tabulation and reporting results;
- testing the RCV tabulation software for compliance with the RCV tabulation requirements stipulated by the City;
- testing the vote tabulators against the City's functional requirements, including feed rate, ability to handle folded ballots, handling marginal marks, tolerance for torn ballots and ballot acceptance and rejection requirements; and
- creating forensic benchmarks to verify whether system installations encountered in future test events are identical to the system installation tested during the mock election.

On the evening of March 27, we developed a marking plan for a test deck containing sixty-one ballots specifically designed to test whether the RCV tabulation system was compliant with requirements provided by the City.

On March 28, we met with City officials and representatives of Dominion. The discussion included a description of the system functions, City requirements, procedures to be followed during the day and expected outcomes.

The DVS.DemocracySuite.ResultTally.exe software used in the test was copied from a laptop provided by Dominion. Both City staff and FCMG took MD5 and SHA256 hashes.

The MD5 hash returned a value of 1f2b76dda386314d63787b27abe1a737.

The SHA256 hash returned a value of c1c7f7513332623b0f75262e6f18981493d50dfe09a8a6bc43181544a4113ea2

The ImageCAST Precinct Tabulator features an internal firmware hashing utility. The utility was run on two “ImageCAST PCOS-321C” tabulators with serial numbers “AAFAKEM104” and “AAFAKEM123.” Each tabulator returned a value of 05 68 ce a7 c7 81 65 47 2f 4e 78 6c fb 38 4f b1 84 b1 b0 76 5d 1a ef 1a 7e 19 6a 1f d5 e0 d2 f1.

Following the RCV ballot-marking plan, we prepared a test deck. Polls were opened on an ImageCAST precinct tabulator, the ballot test deck was scanned, the polls were closed and results were printed. The results were uploaded to a laptop running the DemocracySuite Results Tally system. RCV processing was completed, reports were printed and the results were verified.

In order to test the system’s sensitivity to, and handling of, marks that do not completely fill the ovals, but could indicate a voter’s choice, we prepared a deck of test ballots with a variety of marginal marks. These marks included check marks, lines through the oval, marks outside of the oval, and hesitation marks. The deck was processed. The tabulator rejected a number of ballots with marginal marks. When a ballot was rejected, it displayed a message saying “Warning! One or more ambiguous marks were detected on the ballot. Please use the proper marking pen and fill in the targets completely. For additional details please press the ‘more’ button.” The rejected ballots were examined by City staff and are further discussed in the Findings and Recommendations section of this report.

Finally, we prepared a deck of marked ballots that included ballots folded in various manners, including folds across and between timing marks, one ballot that had been wadded into a ball, ballots with slight tears along the side and top, ballots with ink and mascara smudges, and a ballot with a stray mark through some of the timing marks. The ballots were scanned and the results were recorded. The rejected ballots were examined by City staff. A full evaluation of the outcome is discussed in the Findings and Recommendations segment of this report.

Although the initial test deck exercised the system’s RCV logic, it contained an artificial pattern and included an unrealistic number of candidates with zero votes and tied vote totals in the initial elimination rounds.. This deck allowed us to conduct a thorough test of how the RCV tabulations handled tied races using a minimal number of marked ballots, but it was not representative of an actual election. In order to present a more realistic tabulation, we prepared a second test deck of sixty ballots that did not include any candidates receiving zero votes after the first round of voting.

On March 29, a tabulator was cleared, the poll was opened and the sixty ballot deck was processed. After the ballots were run, the poll was closed, results were uploaded, the RCV tabulation was completed and results reports were prepared. Members of the City staff took the results and began to format them in order to create an output data file that could be elegantly displayed on their results web pages.

An initial review of the City’s procedures is progressing. The City has provided us with the most recent draft of the documents in a Microsoft word file. Our observations, suggested edits and comments will be provided using Word Track Changes markup and the document will be returned to the City.

Findings and Recommendations

RCV Tabulation

As tested, the Dominion Voting Systems Democracy Suite provides RCV tabulation that complies with the requirements specified in Ontario Regulation 310/16, as interpreted by the City as applicable to the October 22, 2018 election.

Rules for tabulating RCV elections vary from jurisdiction to jurisdiction. The Dominion system is designed to accommodate a variety of election rules. Settings that control RCV tabulation are managed through RCV “profiles,” and users can select from existing profiles as well as edit, create and delete profiles. For the October 22, 2018 election, Dominion created a profile named “London RCV”. This profile includes the following settings:

Setting	Value
• RCV Method =	IRV
• Previous Round Evaluation Method =	Backwards from previous round
• Elimination Type =	Single
• Votes to include in Threshold Calculations =	Continuing Ballots 1 st Round
• Use Previous Tie Break Decision =	Checked
• Exclude Unresolved Write-ins =	Unchecked
• Declare Winners By Threshold =	Checked
• Uses Precincts =	Checked
• Pause After Round =	Checked
• Perform Elimination Transfer in Last Round =	Checked
• Skip Over voted Rankings =	Unchecked
• Use First Round Suspension =	Unchecked

These settings are critical for the system to perform the RCV tabulation in compliance with the City’s requirements. Any operator in the Result Tally and Reporting (RTR) module can change these settings and alter the tabulation. The system provides documentation of most of the settings in the result report as shown below:

Tabulation Options	
RCV method	IRV
Exclude unresolved write-ins	FALSE
Declare winners by threshold	TRUE
Uses precincts	TRUE
Previous rounds evaluation method	Backwards from previous round
Elimination type	Single
Fixed precision decimals	0
Perform elimination transfer in last round	TRUE
Skip over voted rankings	FALSE
Votes to include in threshold calculation	Continuing ballots 1st round
Use first round suspension	FALSE

We recommend that procedures require that the selected profile and the settings for that profile be verified at the beginning of the tabulation of each race. After the reports are generated, the tabulation options should be reviewed and verified once more.

ImageCAST Precinct Tabulator Functionality

The tabulators processed ballots at a rate of ten ballots in one minute, fifty nine seconds or five ballots per minute. This exceeds the City's requirements of 4.5 ballots per minute and 280 per hour.

The tabulators properly rejected ballots that did not include the initials of an election official.

The tabulators produced a status report that detailed poll information, the serial number of the tabulator and the total number of ballots scanned on that tabulator

The tabulators successfully scanned ballots that had been folded, including folds across timing marks, between timing marks, lengthwise, and included a ballot that had been wadded into a ball. Any ballot that was sufficiently straightened to enter the feed mouth was accepted, scanned and accurately tabulated.

The tabulators were reasonably tolerant to stray marks and smudges in the ballot header, footer and areas containing timing marks. A stray pen mark from the clerk's initial block through one of the timing marks was accepted, as was a mascara smudge in the top header marks. A thumbprint with ink from a ballot marking pen in the footer of the ballot caused the ballot to be rejected.

Over voted, under voted and blank ballots were not rejected and proper marks on ballots with over votes and under votes were counted. However, the system did reject ballots when it detected one or more marks that it classified as ambiguous on a ballot. We reviewed the rejected ballots with City staff. They determined that many of the marks rejected for being ambiguous were typical of marks made by voters and, as such, should be counted. These marks included checkmarks, slashes and large dots within the ovals. Although the instructions for marking the ballot call for the voter to fill in the oval, in practice, a high number of voters simply do not do that. The threshold for an "ambiguous mark" appears to be set too high. The system's scanning parameter settings allow the thresholds of mark detection on the ballot in the percentage of marked pixels to be adjusted. However, the Democracy Suite EMS Election Event Designer User Guide states:

"The scanning parameters should only be changed by an advisory of the Dominion Voting Systems engineering group. When creating a new project, these settings will be set at their default values. The default values represent the calibrated values. Settings should be left at the default values unless the Dominion Voting Systems engineering group recommend otherwise."

We recommend that the City work with Dominion to resolve this issue, setting thresholds that will be more tolerant of the marks that voters will make as they mark their ballots. The test deck

exercising these marginal marks was left with the City and may be used to re-test the system after the threshold settings are modified.

Since the threshold numbers used in our test are presumably “default” values automatically assigned by the system when a new election is defined, we further recommend that procedures to verify the modified threshold settings are included in all future election definitions.

Election Results Reports

Although the system can produce election reports and logs, those provided by the RCV tabulation module have fields that are too wide to fit on standard paper and result in an inelegant solution for posting results on a web page. If they use an XML, or other data file, that City staff can create their own web based reports, which is an acceptable solution to this issue. The Democracy Suite EMS Results Tally & Reporting User Guide describes various export types and the possibility of “export packages” within the system presented for the mock election however neither we, nor City staff, were able to create an XML or delimited text file with the election results. We recommend that the City contact Dominion and discuss the file formats that are available to them and how they are generated.

Methodology and Scope Limitations

Our expertise is in examining computerized voting systems, analyzing systems operation, evaluating system compliance with established criteria, developing standards for systems and reviewing and developing procedures for the use of these systems. We are not attorneys and do not offer legal advice. To advise the City on the legal requirements for the conduct of their election would require an interpretation of law. Accordingly, we do not provide any opinion regarding those issues.

We provided assistance to the City when it conducted a set of tests on the voting system and a review of proposed procedures for use in planning and preparing for the October 22, 2018 election. The intended audience for this report is the election administrators of the City and those stakeholders responsible for enacting election law, formulating policy, funding and budgeting for election administration.

Both the work we performed and our findings are strictly limited to the specific serial numbered hardware elements, software elements and proposed procedures we examined. The results described in this report should be reliable and repeatable for those specific items as they were configured during the examination, using the same election definition and test ballots. The decision to apply those results to other items is solely at the discretion and risk of the City. Use of this information by others for purposes not contemplated in the design of this project may lead the users to unfounded conclusions.

Attachment A

Activities and Deliverables

Mock Election and RCV Functional Test

March, 28, and 29, 2018

- Review the City's procedures to conduct RCV tabulation and the system documentation provided by Dominion
- Meet with the City's election officials, tour facilities and finalize project plans.
- Verify that the versions of firmware and software provided for the mock election are identical to those identified in the contract between the City and Dominion and planned for use in the October 22, 2018 election.
- Develop ballot marking pattern and expected results for RCV tabulation during the mock election.
- Create a test deck for the mock election.
- Evaluate and resolve any variance from the expected results.
- Identify and document any part of the system's RCV tabulation that deviate from the requirements in Ontario Regulation 310/16.
- Recommend solutions to resolve any variation from those requirements.
- Provide an analysis to identify internal and external factors that affect the validity, efficiency and timing of results.
- Suggest ways to improve the process based on a review of the procedures and conduct of the mock election.

Acceptance Test

August, 2018

- Assist the City and Dominion to create an acceptance test plan to verify that the equipment received, the software and firmware installed is physically, electronically, mechanically and functionally correct. The system should be identical in every respect to the system prescribed in the contract between the City and Dominion. The system should also be configured to meet all requirements enumerated in the City's laws, rules and procedures. Every system component should be undamaged and operational. The system should pass every diagnostic routine prescribed by Dominion.
- Verify the correct firmware and software is installed on every element of the voting system. The firmware and software should be identical to that verified during the mock election. This verification may be accomplished either by witnessing the software and firmware being installed on every device from trusted installation media or through verification routines similar to those described in Volume I, Section 7.4.6 "Software Setup Validation" of the Voluntary Voting System Guidelines published by the US Elections Assistance Commission.
- Assist the City with the acceptance test, record the proceedings and report any findings.
- Help the City and Dominion resolve any anomalies found during the acceptance test.

Logic and Accuracy Test

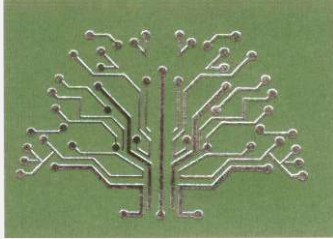
September 10-14, 2018

- Provide the City with the tools to develop and evaluate the logic and accuracy test for the tabulation equipment, results software and display.
 - Develop and evaluate includes, but is not limited to:
 - create marking pattern and expected results for test decks;
 - oversee, and participate in, marking ballots with City staff;
 - proof test decks and correct any mismarked ballots;
 - Test the system's ability to process folded ballots and marginal marks;
 - verify that all equipment is programmed with the correct election definition for the polling place to which it is assigned and can process the ballots for that polling place;
 - analyze any variance from the expected results and determine whether ballots were marked in error or there was a tabulation error;
 - help the City and Dominion resolve any anomalies found during the Logic and Accuracy test.

Tabulation Observation and Post-election Evaluation

October 21 — 23, 2018 and Dates TBD in 2019 for Final Report.

- Onsite observation and evaluation will include:
 - observe election night tabulation;
 - observe RCV tabulation;
 - prepare an audit report on the RCV tabulation;
 - present the audit report to the Corporate Services Committee during the first quarter of 2019 as part of the City's comprehensive debriefing on the 2018 Municipal Election.



FREEMAN, CRAFT, MCGREGOR GROUP

Acceptance Test and
Logic and Accuracy Test for
Dominion Voting Systems'
Democracy Suite 5.4.7.2 Prior to Its
Use by the City of London, Ontario
for the conduct of the
October 22, 2018 Municipal Election

Prepared September 30, 2018

Post Office Box 1716 – Tallahassee, Florida 32302-1716

Introduction

On April 4, 2017, under the authority provisions of subsections 42(1)(a) and (b) and 42(5) of the Municipal Elections Act, 1996, as amended, the Council of City of London, Ontario (the Council) passed By-Law Number E-182-116 to authorize the use of vote counting equipment and alternative voting methods that do not require electors to be present at a voting place in order to vote in the 2018 municipal election. The By-Law provides:

1. The use of poll optical scanning vote tabulators for the purpose of counting votes at Municipal Elections is hereby authorized.
2. Sections 43 (Advance Votes) and 44 (Voting Proxy) of the Municipal Elections Act, 1996, as amended, apply to the City of London 2018 Municipal Election.
3. The use of touchscreen voting machines for advance voting at all advance poll locations is hereby authorized.
4. Upon request, vote by mail be provided to qualified voters as an alternative voting method that does not require electors to be present at a voting place in order to take part in Municipal Elections is hereby authorized.

On May 1, 2017, under the authority provisions of subsection 41.2(1) of the Municipal Elections Act, 1996, as amended, the Council passed By-Law Number E-183-143, a by-law with respect to ranked ballot for the 2018 municipal election. The By-Law provides:

1. Ranked ballot elections shall be used for all offices on the council for The Corporation of the City of London.
2. An elector is entitled to rank a maximum of three (3) candidates for the office of Mayor and three (3) candidates for the office of Ward Councillor.
3. This by-law applies to all regular elections and by-elections of The Corporation of the City of London.

On December 15, 2017, the City of London, Ontario (the City) executed a contract to rent hardware, a software license and services with Dominion Voting Systems (Dominion).

On March 20, 2018, the City entered into a contract with the Freeman, Craft, McGregor Group to provide election consultancy and audit services for their preparation and conduct of the October 22, 2018 municipal election. The contract requires four sets of services as listed below:

1. Assist the City with a mock election and a functional test of the ranked choice voting system. This work was completed March 27 through 29, 2018. Our report on that work was completed on April 12, 2018.
2. Assist the City and Dominion with the acceptance test for the system. This work was completed August 6 through 10, 2018 and is included in this report.
3. Assist the City with conduct of a logic and accuracy (L&A) test. This work was completed September 10 through 14, 2018 and is included in this report.
4. Observe tabulation and provide a post-election evaluation. The observation is scheduled for the week of October 22, 2018. The observation and post-election evaluation report will be prepared thereafter.

Acceptance Test Objectives

The objectives of an acceptance test are to verify that the equipment received, and the software and firmware installed, are physically, electronically, mechanically and functionally correct. The system should be identical to the system prescribed in the contract between the City and Dominion, configured to meet all requirements enumerated in the City's laws, rules and procedures and all components should be undamaged and operational.

In order to be effective, the test must include all components of the system that will be used in the election. Firmware and software installed on the system must be identical to that which was tested during the mock election.

Tasks and Services Performed

On August 7 and 8, 2018, we assisted City staff conduct acceptance tests on two hundred polling place tabulators, thirteen advance vote tabulators and twelve ballot marking stations.

These tests included a physical inspection to ensure the machines had no damage, the use of both battery and AC power, verifying the firmware, confirming that the system has the ability to read ballots fed to them in any orientation, then tabulating the ballots preparing the reports to show that the system met the expected results.

On August 9 and 10, 2018, we assisted City staff conduct acceptance tests on the election management and reporting software. The test included verifying the software version and exercising the capabilities for ranked choice tabulation, reporting and providing audit data.

Acceptance Test Findings and Recommendations

The tabulators were inspected and a variety of minor issues were noted. Most significantly was that a hasp on the USB/Modem door on numerous machines had been bent in order to prevent the door from opening. While this apparently secured the door for some former user, it also prevented the USB port from being inspected to ensure that no unauthorized devices were resident on the unit. On some other machines, the door was loose and would not latch.

We recommended that during the L&A test all of these doors be opened and the ports inspected to verify that they have no improper devices installed. The area is small enough to allow a USB transceiver to be inserted and avoid detection.

- Dominion support personnel should be assigned to straighten the hasp. The hasp is made of a fairly soft metal and there is danger of it breaking due to metal fatigue when it is straightened.
- The verification and sealing should be performed, or witnessed, by two or more people in order to verify that no lone individual could install and conceal an unauthorized device. Both individuals should sign the L&A checklist.
- The console port behind the Card 2 door should also be inspected to be sure that it is clear and sealed by two or more people.

A number of machines needed to have their clocks reset. A few machines also required that their touch screens be recalibrated. Cosmetic damages to tabulator cases were documented. The hash values taken from all of the machines verified that the correct firmware was installed. Overall, there were no issues that resulted in a machine being rejected. It was noted that on many machines the “System Ready” text on the touch screen would flicker or flash. City staff confirmed with Dominion that this was normal. Although the occurrence and frequency of this was somewhat inconsistent, it did not appear to have an impact on the functionality of the machines.

Accessible machines were exercised. The audio ballot operated as expected. The devices marked ballot selections made within the audio ballot correctly. Within the noisy environment of the City Hall basement, the initial volume settings made it difficult to hear the audio ballot. Once the volume was turned up, it was no longer a problem. We believe that within an advance voting location this should not be a problem.

On August 9, 2018 the test ballot decks that were run during the mock election were re-run on new memory cards provided by Dominion for the acceptance test. All of the tabulated totals matched those previously tabulated during the mock election. There were differences in format and content on the tabulator results tape. The test deck was re-run using the same memory card as used in the mock election. When the ballots were run using the memory cards from the mock election, the content of the report was identical to that produced after the mock election. The differences in format and content of the tabulator results tape were based upon differences in the report formatting for the mock election verses the acceptance test.

We tabulated the results with the same profile used in the mock election. We duplicated the manual tiebreaks and arrived at identical results. After the mock election, the City decided to use a new ranked choice profile that does not use automated tie breaking. The logic of breaking a tie will not change, but the process will be performed manually rather than automatically. The profile was changed as follows:

- Previous Round Evaluation Method was changed to None and
- Use previous tiebreak decision was changed to No.

The ranked choice elections were re-tabulated using the same tiebreaker process as in the original mock election without automatic tie breaking. The results were identical and the program behaved as expected.

We tested the speeds of uploading results and ballot images. With three hundred one ballots on a file, the ballot images were uploaded in twenty-seven seconds and data took between fourteen and seventeen seconds. This indicates that the combination of ballot images and data takes approximately twice as long to upload as only data. Unless there is a need for ballot image data on election night, we recommend only the data be uploaded.

We reviewed the EMS “Results Tally and Reporting” application capability to export cast vote records, audit files and ballot image files. Our expectation was that data from the cast vote record could be exported either in a spreadsheet or delimited file that could be viewed in a

spreadsheet with each row of the spreadsheet displaying the selections made on a single ballot. It appears that Dominion attempted to implement such a report with a Comma Separated Values (CSV) file that appeared to meet our needs. However, the file only contained data for votes on the first ranking in each contest. We attempted to produce the file using a number of the options in the menu but were unable to produce a file containing data for second and third rankings.

We followed the steps for “Exporting Audit Files” and produced the Export Audit File as shown in the system manual. The file contained detail of the contents of each ballot including a ballot file name that can be used to retrieve the ballot image. However, the file does not allow the images to be sorted or the number of selections on the ballot to be calculated.

We followed the steps in section 14.3 “Exporting Audit Images” and produced a directory of ballot images. We compared a sample of those images to the audit file data produced in the section 14.2 process. For all of the records sampled, the images and audit data matched.

We recommended that the City work with Dominion to resolve the inability of the CSV file of cast vote record data so it would include the data for votes in the second and third rankings and make reconciling the data on tabulator reports with the data imported into the “Results Tally and Reporting” application easier.

L&A Test Objectives

The objectives of an L&A test are to verify that all of the equipment is operating properly, programmed with the correct election definition and can process the ballots that will be used in the election. Polling place equipment must be assigned to, and programmed for, use in specific polling places. The L&A test must demonstrate that each piece of polling place equipment is correctly programmed and can process the ballots that will be used in its assigned polling place. Testing the election management and reporting systems must demonstrate that they can consolidate and process the data from all polling place devices accurately, perform the tabulation and correctly report results.

When these verifications were complete, the test data were zeroed on all system components. Polling place equipment was sealed, packed for transport to polling places and stored in a secure, sealed room.

L&A Test Tasks and Services Performed

On August 10, 2018 we received a ballot proof file for the ballots that would be used in the October 22, 2018 election. We began developing a ballot marking pattern file for the City staff to use in the L&A test decks for polling place machines. To create test decks that would test every marking position on every ballot style, and how the system handles under voted contests and over voted contest required twenty-three ballots per ballot style. With five ballot styles per ward, the test deck for each ward totaled one hundred fifteen ballots. The master deck covering all fourteen wards required one thousand, six hundred ten ballots. After the City had approved

the strategy and volume of ballots proposed for the test, we developed a ballot marking pattern and expected results file for each of the fourteen wards.

On September 10, 2018 City staff began the L&A test. We assisted by performing the first tabulation of each test deck, proofing the deck and correcting any marking errors that occurred. From September 10, 2018 through September 12, 2018, we also assisted by verifying the hash totals of the firmware on each device and auditing test results against expected results.

On September 10, 2018 we completed a ballot marking pattern and expected results file and marked a test deck for the Advanced Vote tabulators. This deck required at least one ballot from each of the seventy ballot styles, and verifying all marking positions for each contest. In order to meet these requirements, we assembled a test deck comprised of eighty ballots. We processed the test deck through each of the advance vote tabulators, verified firmware and results, cleared the data for the election and transferred the tabulators to City staff who sealed, packed and transferred them to secure storage.

On September 13, we provided a set of ballots for testing of the accessible ballot marking machines. A set of twenty ballot styles were identified which would test the audio ballot and proper marking of all contests in the election. City staff conducted the test by marking two of the ballots on each of the accessible machines.

On September 13 and 14, we conducted a mass ballot count on one of the advance vote machines. The master test deck of one thousand, six hundred ten ballots was fed through a single machine. Between the first and second day, the machine was shut down and secured and reopened on the second day following the procedures for advance voting sites. When all ballots had been processed, the machine was closed, and results printed out. The time for the machine to tabulate the ballots was measured and compared to the time for machines that had processed only a single ward test deck.

On September 13 and 14, we worked with City staff to exercise the ranked choice tabulation and reporting functions. Using an Excel formula developed by City staff, we developed a model for Excel templates to process data export files from the election management system and create a report that could be used to audit data on the election management system against the results tapes produced by individual tabulators.

On September 17 through 19, we developed templates for the Mayor's contest and each of the fourteen Councillor contests.

L&A Test Findings and Recommendations

All but three of the tabulators, including polling place and advanced voting machines, processed the test decks and reported results identical to expected results. The three tabulators were failed for operational issues rather than tabulation errors. They were replaced by Dominion and the replacement machines successfully processed and reported results identical to expected results. We recommend and agree with the City's plan to have sufficient back up tabulators available on Election Day to cover any operational failure of equipment.

Although setting the clock on tabulators to the correct time was part of the protocol during the acceptance test, numerous units displayed the incorrect time during the L&A test and had to be reset. The time errors were small, usually less than five minutes. We recommend that, unless the City has already trained polling place officials to check and set the time upon opening the polls, that they simply be aware of this issue when reviewing results tapes and audit records after the election. These time errors are immaterial and changing polling place procedures at a late date introduces unnecessary risk.

The tabulator configured for advance voting and used to conduct the volume test successfully processed the one thousand, six hundred ten ballot test deck and reported results identical to expected results. When the election was closed the machine took twenty seconds longer to tabulate and print the results than machines that had processed test decks consisting of one hundred fifteen ballots.

All of the accessible ballot marking machines provided the correct audio ballot and marked ballots consistent with the selections made by testers.

We found that, as discovered during the acceptance test, the CSV file of cast vote record data did not include the data for votes in the second and third rankings and could not be used to reconcile the data on tabulator reports with the data imported into the “Results Tally and Reporting” application. We worked with City staff to develop Excel templates that can process data export files from the election management system and create a report that can be used to audit data on the election management system against the results tapes produced by individual tabulators. We recommend that the Excel templates be used to verify that data imported from tabulators into the Results Tally and Reporting Application has been uploaded correctly and is consistent with the results produced by the tabulator.

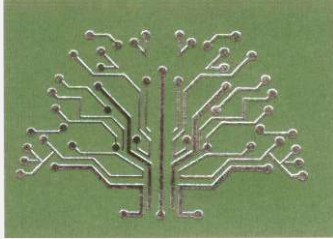
Our overall finding is that the system is now election ready. All devices are performing as expected and the procedures developed by City staff appear to be sound.

Methodology and Scope Limitations

Our expertise is in examining computerized voting systems, analyzing systems operation, evaluating system compliance with established criteria, developing standards for systems then reviewing and developing procedures for the use of these systems. We are not attorneys and do not offer legal advice. To advise the City on the legal requirements for the conduct of their election would require an interpretation of law. Accordingly, we do not provide any opinion regarding those issues.

We provided assistance to the City when it conducted a set of tests on the voting system and a review of proposed procedures for use in planning and preparing for the October 22, 2018 election. The intended audience for this report is the election administrators of the City and those stakeholders responsible for enacting election law, formulating policy, funding and budgeting for election administration.

Both the work we performed and our findings are strictly limited to the specific serial numbered hardware elements, software elements and proposed procedures we examined. The results described in this report should be reliable and repeatable for those specific items as they were configured during the examination, using the same election definition and test ballots. The decision to apply those results to other items is solely at the discretion and risk of the City. Use of this information by others for purposes not contemplated in the design of this project may lead the users to unfounded conclusions.



FREEMAN, CRAFT, MCGREGOR GROUP

Tabulation Observation and
Post-election Evaluation Report
For the City of London, Ontario
October 22, 2018 Municipal Election

Prepared December 7, 2018

Post Office Box 1716 – Tallahassee, Florida 32302-1716

Introduction

On April 4, 2017, under the authority provisions of subsections 42(1)(a) and (b) and 42(5) of the Municipal Elections Act, 1996, as amended, the Council of City of London, Ontario (the Council) passed By-Law Number E-182-116 to authorize the use of vote counting equipment and alternative voting methods that do not require electors to be present at a voting place in order to vote in the 2018 municipal election. The By-Law provides:

1. The use of poll optical scanning vote tabulators for the purpose of counting votes at Municipal Elections is hereby authorized.
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On March 20, 2018, the City entered into a contract with the Freeman, Craft, McGregor Group to provide election consultancy and audit services for their preparation and conduct of the October 22, 2018 municipal election. The contract requires four sets of services as listed below:

1. Assist the City with a mock election and a functional test of the ranked choice voting system. This work was completed March 27 through 29, 2018. Our report on that work was completed on April 12, 2018.
2. Assist the City and Dominion with the acceptance test for the system. This work was completed August 6 through 10, 2018.
3. Assist the City with conduct of a logic and accuracy (L&A) test. This work was completed September 10 through 14, 2018. Our report on the acceptance and L&A tests was completed on September 30, 2018.
4. Observe tabulation and provide a post-election evaluation. The observation was conducted on October 22 and 23, 2018. This report describes assistance we provided to the City with final preparations for the election on October 20 through 21, 2018, our observations and evaluation of the tabulation, and our recommendations.

Final Preparation Assistance Objectives

The objectives for this engagement were to prepare polling place tabulators that were previously used as accessible ballot marking devices in advanced voting sites for use as backup for any tabulators that failed on Election Day, conduct a final validation on the election management and reporting software and, using test data, conduct a final walk through of the system operation with City staff.

Final Preparation Tasks and Services Performed

On October 20, 2018, we assisted City staff members as they conducted acceptance and L&A tests on six polling place tabulators that had previously been used as accessible ballot marking devices during advanced voting. These tests included physically inspecting each unit to ensure the machines had not incurred any damage, verifying the firmware, installing memory cards programmed to read ballots assigned to any polling place and, using the test deck from the previous test, conducting an L&A test. Ballots were scanned and the results verified. Reports were printed and uploaded to the election management and reporting software. The test data was cleared for the election and the tabulators were sealed, packed and placed in secure storage by City staff.

Six of the machines used for accessible voting were staged without memory cards or seals. These machines were available to replace any equipment that encountered a mechanical failure. The expectation was, that for any machine that has only a mechanical failure, recovery could be made by providing a new machine and inserting the memory cards from the failed unit into the new machine. After the memory cards and seals were removed from these machines, they were packed and placed in secure storage.

On October 21, 2018, we verified the hash values for the election management and reporting software on the primary, as well as the backup, laptop. Reports were generated using data uploaded from the six backup machines tested the previous day and hard copies were printed. We observed City staff execute ranked choice voting (RCV) tabulation using the test data in the Mayor's race and edit the format of the printed reports to improve readability. We exported ballot data from EMS to cast vote record files (the RTR files), processed the RTR files through Excel worksheets and compared the data in the RTR file to the results tapes generated on the precinct tabulators. We reconciled results in the mayor's race between the results tapes and RTR files.

Next, both laptops were purged of all election data. After the data were removed, we discovered that both machines retained test voter registration data from the 2014 election. The documentation provided no information on how to clear or edit this data. The City contacted Dominion for assistance on this issue. We learned that there was a separate user account that allowed voter registration data to be entered and edited through the Election Management System Election Event Designer software. City staff entered current voter registration data onto

the system and proofed the data after it was entered. Both laptops were shut down and placed in secure storage for the night.

Observation and Evaluation Objectives

The objectives of Observation and Evaluation were to observe both the election night and the RCV tabulation processes and to provide a report of our observations and recommendations to the City.

Observation Tasks and Services Performed

On Election Day, October 22, 2018, we verified the hash of the election management and reporting software on both the primary laptop and the backup once more. Beginning at 1:20 PM we observed City staff purge test results from the primary and backup laptops, then print zero reports to show that no data remained on either machine.

At 2:05 PM City staff closed the advanced balloting machines. The machines had been kept in secure storage since their return from advanced voting sites. Each machine was powered up, the polls were closed and the results were printed. As the results tape was printing, it was rolled up in a manner that prevented the operator from observing totals on the tape. The serial numbers of the tamper evident seals on the machines were verified against a record of seals applied to each machine. The seals were removed and pasted to sheet of paper, labeled and made a part of the election records. With the exception of one machine, no tamper evidence or inconsistency in seal numbers was detected. The results tapes and memory cards were put in a results envelope and staged for processing through the Election Management System (EMS) and RCV tabulation. The machines were repacked in their original boxes.

The machine bearing serial number AAFAJHY0207 had seals that showed evidence of tampering, so the log files for the memory card were downloaded and examined. The logs indicated that, during advanced voting on October 6, 2018, the machine was shut down and its compact flash cards were transferred to a replacement unit (serial number AAFAJEM0029) and voting continued through the day. On October 13, 2018 voting resumed on the second machine. At around 1:00 PM the original unit was returned from being serviced and replaced the second machine. Apparently, the tamper evident seals from the first machine were retained with it and reapplied when it was reinstalled. The information in the log file corresponds to City staff accounts of the incident. The number of ballots tabulated, 1,510, is an exact match to the record of the number of voters who cast votes in the advanced voting site.

The mail ballots were tabulated at 3:00 PM. Before they were brought to the tabulation room, the ballots were processed and the outer envelopes with voter identification had been removed. City staff began opening the secrecy envelopes and flattening the ballots in preparation for scanning. Two staff members fed vote by mail ballots through the tabulator. When the polls closed at 8:00 PM, and no more mail ballots had been delivered, the tabulator for the vote by mail ballots was closed out and the results printed. The memory cards were pulled and staged with the results tapes so they could be uploaded and processed through EMS.

After 8:00 PM, a final pre-tabulation zero report was printed from EMS. Members of the City staff began to upload the memory cards from the mail ballot and advanced voting tabulators. As each memory card was uploaded, the number of ballots included in the upload was verified against the results report tape from the tabulator.

Thirty-one machines arrived from polling places with seals that either been removed or showed evidence that the seal had been lifted from the machine and put back in place. When this was initially discovered, at the warehouse, the machines had low ballot counts so they were closed, the ballots were rescanned and the number of rescanned ballots was compared to records from polling place that logged the number of ballots used. However, as more machines arrived with compromised seals and higher ballot counts, rescanning on election night became impossible. The City Clerk and Manager of Elections agreed to document the machines that were returned with broken seals as they came in and revisit the polling place records before the results were certified.

Two machines arrived from polling places with unscanned ballots in the auxiliary bins. City staff scanned these ballots at City Hall, closed the machines and printed the results.

One special polling place, located in a nursing home, had “bed to bed” ballots as well as ballots that were scanned through the tabulator by voters. The tabulator was re-opened at City Hall and the bed to bed ballots were scanned by City staff. The tabulator was closed and the results were printed.

Memory cards were uploaded until all of the cards from all of the machines were transferred to the primary laptop. When all of the memory cards for a Councillor seat were uploaded and the results were decisive (50% + 1 vote) based on the first choices without RCV tabulation, the results reports were printed and the City Clerk announced the winners. The final results of election night tabulation were completed at approximately 11:00 PM. The room and all equipment were secured for the evening. On election night, only first choice results were tabulated. RCV tabulation was scheduled for the next morning.

On October 23, 2018 at 10:00 AM, City staff began the RCV tabulation for the offices that had not been determined the night before. As we monitored the process, City staff manually checked the math for each ranking step against the tabulator. The results were printed for each office and delivered to the City Clerk’s office where they were proofed one more time before the winner was announced. There were no anomalies throughout this process. All unofficial results were published and the room was secured at approximately 3:00 PM.

On October 24, 2018 at 10:00 AM we assisted City staff as they uploaded the ballot images to EMS. We also copied system audit logs from each of the tabulators with compromised or missing seals, the two tabulators with ballots in the auxiliary bins and the tabulator that was reopened to scan “bed to bed” ballots. City staff backed up the system then copied the data to the backup laptop and a jump drive. We debriefed with City staff and observed the room being secured and all equipment transferred to secure storage.

Post Election Analysis Services

During the week following the election, we analyzed the system audit logs that were collected on October 24. We prepared a work paper summarizing the significant events in each tabulator's audit log and provided it to City staff on October 30, 2018.

Observations and Recommendations

First, we commend the City of London, City Clerk Cathy Saunders, her managers and staff on their excellent performance in the conduct of this election. In addition to the usual challenges of running a successful election, such as training hundreds of poll workers to carry out complex tasks for a one-day event, planning for, and the logistics of, distributing and recovering election equipment from hundreds of poll locations, they had the added complexities implementing RCV tabulation. Added challenges related to RCV tabulation included a short time frame to acquire and learn how to use the new system, providing voter education and poll worker training. There was also the added pressure of being the first entity in Canada to use RCV tabulation. Their performance was exceptional and their success stunning.

Based on our tests of the system and its programming, our observation of City staff using the system and our review of system audit logs, we believe that the system accurately tabulated and reported results from the ballots cast following the rules and procedures for RCV tabulation adopted by the City of London. We further believe that the system records, including the ballots, ballot images and system interpretations of each image, the export files of the accumulated cast vote records, and detailed reports of the ranking process and calculations provide adequate transparency and sufficient evidence for the City to successfully defend against any challenges to the integrity of the tabulation process and election results.

After the system was received and the acceptance and L&A tests were completed, City staff took complete control and custody of the system isolating it from vendor support personnel. They learned to operate the system independently and practiced operational steps. As a result, they could operate the system without the support of the voting system vendor on Election Day. We recommend that they continue to use this approach to system management and security in all future elections.

In our post-election analysis of system audit logs from tabulators with compromised or missing seals, we found no evidence that the machines were powered up between the L&A test and the beginning of voting or any ballots cast outside of the hours of polling place operation, except for the three units with ballots in the auxiliary bin and bed to bed ballots. The logs indicate that these machines were reopened and the additional ballots were fed into the machine after it was received at City Hall. In thirty-one out of one hundred ninety-nine polling places, poll workers compromised the seals on the memory card compartments. There are several factors that could have contributed to these seals being compromised. First, the Training Manual does not discuss the seals on the memory card doors, the importance of not breaking the seals or what steps to take when a seal is broken. Second, the seals are very easy to remove. They are a piece of

adhesive material similar to an adhesive tape and can easily be lifted with a fingernail. We recommend that future poll worker training and procedures emphasize the importance of maintaining the integrity of the tamper evident seals, provide procedures for reporting broken seals and issuing replacement seals and creating incident reports when seals are found broken or when a machine failure requires a seal to be broken. We further recommend that a seal that will provide some resistance to tampering such as a wire seal or a plastic padlock style seal that requires a tool or significant effort to remove be used instead of the adhesive tape seal.

In the instance of the advance poll machine (serial number AAFAJHY0207) that developed mechanical problems and was replaced, we do not understand why it was serviced and then returned to operation replacing its replacement. This created a second and unnecessary exchange of machines in the polling place. We recommend that a procedure to swap out tabulators experiencing mechanical failures be developed that includes documenting the seal broken on the replaced tabulator, applying security seals to the replacement tabulator and documenting the seal numbers, removal of the replaced tabulator from the inventory of “usable” machines and when a machine is repaired, it must undergo acceptance testing before it can be brought back into the inventory of usable machines.

Scope Limitations

The scope of this engagement was limited to election preparation and tabulation activities conducted at City Hall. We did not assist with or observe poll worker training, advanced voting sites or Election Day polling places. Our observations and recommendations on the use of seals in polling places are based solely on our observations and examination of equipment received at City Hall from polling places.

Our expertise is in examining computerized voting systems, analyzing systems operation, evaluating system compliance with established criteria, developing standards for systems, reviewing and developing procedures for the use of these systems and conducting observations of the conduct of elections. We are not attorneys and do not offer legal advice. Our understanding of the controlling law and policies in this election is based upon documents provided by and discussions with City staff.

We provided assistance to the City when it tested the voting system, assisted the city in planning and preparing for the October 22, 2018 election and observed the conduct of the election. The intended audience for this report is the election administrators of the City and those stakeholders responsible for enacting election law, formulating policy, funding and budgeting for election administration and evaluating operations.

The work we performed, as well as our observations and recommendations, are strictly limited to the specific serial numbered hardware elements, software elements procedures and conduct of the election we observed. The decision to apply our recommendations in other elections is solely at the discretion and risk of the City. Use of this information by others for purposes not contemplated in the design of this project may lead the users to unfounded conclusions.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING MARCH 19, 2019
FROM:	CATHY SAUNDERS, CITY CLERK
SUBJECT:	IMPLEMENTATION - <i>MODERNIZING ONTARIO'S MUNICIPAL LEGISLATION ACT, 2017</i>

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the City Manager and the Managing Director, Corporate Services and City Solicitor, the following actions be taken with respect to the introduction of policies and procedures to implement amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* as set out in the *Modernizing Ontario's Municipal Legislation Act, 2017*:

- a) the proposed by-law attached as Appendix "A" being "A by-law to repeal and replace By-law No. CPOL.-69-301, as amended, being a By-law entitled "Code of Conduct for Members of Council" and replace it with a new Council policy entitled "Code of Conduct for Members of Council" to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- b) the proposed by-law attached as Appendix "B" being "A by-law to enact a new Council policy entitled "Code of Conduct for Local Boards" to implement recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" requiring a municipality to establish codes of conduct for local boards BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- c) the proposed by-law attached as Appendix "C" being "A by-law to enact a Council Policy entitled "The Corporation of the City of London Integrity Commissioner Terms of Reference" to provide for a revised Terms of Reference to address recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*" BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- d) the proposed by-law attached as Appendix "D" being "A by-law to enact a new Council policy entitled "Members of Council Public Registry Declaration of Interest" to implement recent amendments to the *Municipal Conflict of Interest Act*" requiring Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019;
- e) the proposed by-law attached as Appendix "E" being "A by-law to enact a new Council policy entitled "Public Registry Declaration of Interest for Local Boards" to implement recent amendments to the *Municipal Conflict of Interest Act*" requiring Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019; and

- f) the proposed by-law attached as Appendix “F” being “A by-law to enact a new Council policy entitled “Members of Council – Absence – Pregnancy or Parental Leave” to establish a process to recognize a Member of Council’s ability to take pregnancy and parental leave without a Council motion resulting from recent amendments to the *Municipal Act, 2001* BE INTRODUCED at the Municipal Council meeting to be held on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Item #3 – October 6, 2015 – Corporate Services Committee
Item #4 – July 18, 2017 – Corporate Services Committee
Item #7 – December 5, 2017 – Corporate Services Committee

BACKGROUND

In the summer of 2015, the Province initiated a consultation process to review a number of pieces of Provincial legislation that affect municipal government, including the *Municipal Act, 2001*, the *Municipal Elections Act, 1996*, and the *Municipal Conflict of Interest Act* (MCIA).

The provincial review was focused on the following themes:

1. Accountability and Transparency;
2. Municipal Financial Sustainability; and
3. Responsive and Flexible Municipal Government.

The resulting legislation, Bill 68, “An Act to amend various Acts in relation to municipalities” received Royal Assent on May 30, 2017. The short title of this Act is the “*Modernizing Ontario’s Municipal Legislation Act, 2017*”. A number of the resulting amendments came into effect on January 1, 2018, with the remaining amendments coming into effect March 1, 2019.

A complete copy of Bill 68 can be found at the following link:
http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=4374

The purpose of this report is to bring forward for Municipal Council’s consideration the following proposed policies and procedures to implement the regulations set out in Bill 68 that must be in place by March 1, 2019:

1. A revised code of conduct for Members of Council that reflects changes to the *Municipal Act, 2001* and the MCIA and the related revised complaint protocol (Appendix “A”).
2. A new code of conduct for Members of Local Boards, including Business Improvement Areas (“BIAs”), similar to that established for the Members of Council, along with the related complaint protocol (Appendix “B”).
3. A revised Terms of Reference for the expanded and mandatory role of Integrity Commissioners that includes application to the required codes of conduct and the MCIA, as well as responding to requests from Members of Council and members of local boards for advice respecting their obligations under their respective code of conduct and the MCIA, and providing educational information to the Members of Council, members of local boards, the municipality and the public regarding the codes of conduct and the MCIA (Appendix “C”).

4. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interest made by Members of Council (Appendix “D”).
5. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interest for members of local boards (Appendix “E”).
6. A new Council policy for pregnancy leaves and parental leaves of Members of Council, whereby a member is not required to obtain authorization from Council to be absent for 20 consecutive weeks or less, if the absence is the result of the member’s pregnancy, the birth of a member’s child or adoption of a child (Appendix “F”).

The Legislative Changes – *Municipal Act, 2001*

Codes of Conduct for Members of Council and Local Boards

Legislation requires municipalities to establish codes of conduct for members of the council and local boards. The City established a Code of Conduct for Members of Municipal Council in September of 2014. The Code does not apply to the City’s local boards:

<http://www.london.ca/city-hall/city-council/Documents/Code%20of%20Conduct.pdf>

As a result of the Bill 68 amendments, a proposed revised “Code of Conduct for Members of Council” and related Complaint Protocol and a proposed “Code of Conduct for Local Boards” and related Complaint Protocol are attached to this report as Appendix “A” and Appendix “B”, respectively, for Municipal Council’s consideration. The proposed “Code of Conduct for Local Boards” applies to all members of local boards and not just those members that are elected officials.

Local Boards

The Code of Conduct for Local Boards would apply to the following entities:

1. Business Improvement Areas (BIAs)
2. Committee of Adjustment

The Code of Conduct for Local Boards does not apply to:

- A board of health;
- A committee of management of a long-term care home;
- A police services board;
- A library board; or
- A municipal corporation

Integrity Commissioner – Mandatory Appointment and Expanded Duties

- The functions to be performed by an Integrity Commissioner have been expanded considerably with the most significant being the application of, advice related to and the power to conduct inquiries under section 5, 5.1 and 5.2 of the MCIA and the power to make an application to a judge for a determination that a member has contravened those sections of the MCIA.
- Municipalities must appoint an Integrity Commissioner for its members of council and local boards.

- New rules will apply related to processes to be followed for inquiries conducted by an Integrity Commissioner.

Currently, the functions of an Integrity Commissioner are limited by the *Municipal Act, 2001* to the:

- a) application of the code of conduct for members of council and of local boards; and
- b) application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and local boards.

Bill 68 expands the functions of the Commissioner to include new matters, noting that these functions are mandatory:

- a) the application of sections 5, 5.1 and 5.2 of the MCIA to members of council and of local boards;
- b) requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
- c) requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members;
- d) requests from members of council and of local boards for advice respecting their obligations under the MCIA; and
- e) the provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the MCIA.

One of the most significant amendments in Bill 68 is the new power granted to Integrity Commissioners to conduct inquiries concerning alleged contraventions of section 5, 5.1 or 5.2 of the MCIA by a member of council or a local board:

- a) an Integrity Commissioner may conduct an inquiry into any such matter if made on the application of an elector or a person demonstrably acting in the public interest;
- b) time restrictions apply with respect to when an application may be made and when the Integrity Commissioner must complete the inquiry;
- c) upon completion of the inquiry an Integrity Commissioner may exercise their discretion and apply to a judge for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of the MCIA; and
- d) the costs of an Integrity Commissioner's application to a judge are to be paid by the municipality or the local board.

Bill 68 includes a number of provisions related to the processes used by Integrity Commissioners when conducting inquiries:

- a) requests for advice and responses given by an Integrity Commissioner must be in writing; and

b) during the period from nomination day to voting day:

- i) no inquiries may be conducted, including inquiries under the MCIA;
- ii) an Integrity Commissioner may not report on any contraventions of the Code; and
- iii) inquiries not completed before nomination day must be terminated.

Under Bill 68, municipalities are required to appoint an Integrity Commissioner to perform the responsibilities noted above. The following rules will apply:

- a) where a municipality has not appointed an Integrity Commissioner, it must make arrangements for those responsibilities to be performed by a Commissioner of another municipality; and
- b) if a municipality has appointed an Integrity Commissioner but has not assigned to them all of the responsibilities set out in section 223.3(1), the municipality must make arrangements for those responsibilities to be performed by an Integrity Commissioner of another municipality.

The Legislative Changes - *Municipal Conflict of Interest Act*

New Statement of Principles

- A statement of principles is added to the Act:

Section 1.1

“Principles

1.1 *The Province of Ontario endorses the following principles in relation to the duties of members of councils and of local boards under this Act:*

- 1. The importance of integrity, independence and accountability in local government decision-making.*
- 2. The importance of certainty in reconciling the public duties and pecuniary interests of members.*
- 3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.*
- 4. There is a benefit to municipalities and local boards when members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations, and otherwise.”*

These principles will assist elected officials, the public and the courts in understanding the role of an elected official in promoting confidence in municipal government. Section 1.1 will also guide the courts in interpreting the MCIA.

New Rules for Disclosure of Pecuniary Interest

- Requirement for members to file a written declaration of pecuniary interest.
- Requirement for municipalities and local boards to establish a registry of members’ pecuniary interests.
- New rules permitting members to participate in discussions where a council is considering suspending a member’s pay as a result of a finding of an Integrity Commissioner.

Members are required to file with the City Clerk or the secretary of the committee or local board as the case may be, a written statement of the pecuniary interest and its general nature. The written statement must be filed at the meeting or as soon as possible afterwards.

In addition to the written statement, members are still required under section 5 to make a verbal disclosure of any pecuniary interest they may have prior to the consideration of the matter at the meeting with all such declarations to be recorded in the minutes of the meeting.

Municipalities and local boards will be required to establish and maintain a registry in which they must keep a copy of each:

- a) declaration of pecuniary interest recorded in the minutes of a meeting; and
- b) written statement of the pecuniary interest filed by a member.

The registry must be available for public inspection in a manner and during the time that the municipality or local board may determine.

New rules apply where a council or local board is considering whether to suspend the remuneration paid to a member as a result of a contravention by the member of the code of conduct. The member may:

- a) take part in any discussion of the matter;
- b) make a submission to council;
- c) attempt to influence the voting on a question with respect to the matter; and
- d) attend any meeting related to the matter that is closed to the public.

The member is not permitted to vote on any question in respect of the matter.

Expansion of prohibited activity where a member has a pecuniary interest

- Expansion of the rule related to prohibited activities where a member has a pecuniary interest to include activities beyond council and committee meetings.

Members who have a direct or indirect pecuniary interest in a matter that is being considered by an officer or employee of a municipality or local board or a person or body who has a delegated power or duty are precluded from using their office in any way to attempt to influence any decision or recommendation that results from consideration of the matter.

This rule will not apply to a person or body (ie. Council or an Integrity Commissioner) who is considering the exercise of a delegated power under section 223.4(5) of the *Municipal Act, 2001* to impose a penalty for a contravention of a code of conduct.

Court Applications for Alleged Contraventions to Sections 5, 5.1 or 5.2

- Court proceedings for a determination as to whether a member has contravened the MCIA may be commenced by an elector, an Integrity Commissioner, a municipality or a person acting in the public interest.

Currently, standing to make an application to a judge is limited to an elector. The Bill 68 amendments expand standing to an Integrity Commissioner or a person acting in the public interest. Certain rules related to the timing of the application including time limitations and blackout periods between nomination day and Election Day apply.

Expanded Penalties that may be Imposed by a Judge

If a Judge determines that a member or former member has contravened the MCIA, the Judge may do any or all of the following:

- reprimand the member or former member;
- suspend remuneration paid to the member for a period up to 90 days;
- declare the member's seat vacant;
- disqualify the member or former member from being a member during a period of not more than seven years after the date of the order;
- if the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or if the party's identity is not readily ascertainable, to the municipality.

Proposed Implementation Changes

In order to implement the above noted legislative changes it is recommended that the following documents be adopted by Municipal Council:

1. A revised code of conduct for Members of Council that reflects changes to the *Municipal Act, 2001* and the MCIA and the related revised complaint protocol (Appendix "A").
2. A new code of conduct for Members of Local Boards, including Business Improvement Areas ("BIAs"), similar to that established for the Members of Council, along with the related complaint protocol (Appendix "B").
3. A revised Terms of Reference for the expanded and mandatory role of Integrity Commissioners that includes application to the required codes of conduct and the MCIA, as well as responding to requests from Members of Council and members of local boards for advice respecting their obligations under their respective code of conduct and the MCIA, and providing educational information to the Members of Council, members of local boards, the municipality and the public regarding the codes of conduct and the MCIA (Appendix "C").
4. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interests made by Members of Council (Appendix "D").
5. A new Council Policy that includes the requirement for municipalities to establish a public registry of declarations of pecuniary interests for local boards (Appendix "E").

It is noted that the Integrity Commissioner has reviewed the two proposed Codes of Conduct and related Complaint Protocols and the revised Terms of Reference for the Integrity Commissioner and concurs with the recommendation of adoption.

Councillor Eligibility – Absence for Pregnancy or Adoption

Bill 68 also provides that a member does not require authorization from Council to be absent for 20 consecutive weeks or less, if the absence is a result of the member's pregnancy, the birth of a member's child or the adoption of a child by the member.

Attached as Appendix "F" to the Report is a proposed Council Policy entitled "Members of Council – Absence – Pregnancy or Parental Leave" for Municipal Council's consideration.

PREPARED AND RECOMMENDED BY:	CONCURRED BY:
CATHY SAUNDERS CITY CLERK	MARTIN HAYWARD, CITY MANAGER
CONCURRED BY:	
BARRY CARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY SOLICITOR	

APPENDIX “A”

Bill No. xxx
2019

By-law No. CPOL.-_____

A by-law to repeal and replace By-law No. CPOL.-69-301, as amended, being a By-law entitled “Code of Conduct for Members of Council” and replace it with a new Council policy entitled “Code of Conduct for Members of Council” to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to repeal and replace By-law No. CPOL-69-301, being a By-law entitled “Code of Conduct for Members of Council” and replace it with a new Council policy entitled “Code of Conduct for Members of Council” to incorporate regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Code of Conduct for Members of Council”, attached hereto as Schedule “A” is hereby adopted.
2. By-law No. CPOL.-69-301, as amended, being a By-law entitled “Code of Conduct for Members of Council” is hereby repealed.
3. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Code of Conduct for Members of Council

Legislative History: Adopted August 22, 2017 (By-law No. CPOL.-69-301); Amended July 24, 2018 (By-law No. CPOL.-69(a)-407), Repealed and Replaced March 26, 2019 (By-law No. CPOL.-_____)

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

- 1.1 This Code of Conduct is established under the authority of Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, as amended.

2. Definitions

In this Code of Conduct:

- 2.1 **Apparent conflict of interest** – shall mean if there is a reasonable perception, which a reasonably well-informed person could properly have, that the Member’s ability to exercise an official power or perform an official duty or function must have been affected by their private interest;
- 2.2 **Child** – shall mean a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of their family;
- 2.3 **Code** – shall mean this Code of Conduct;
- 2.4 **Corporation** - shall mean The Corporation of the City of London;
- 2.5 **Council** - shall mean the Council of The Corporation of the City of London;
- 2.6 **Family member** - shall mean a child, parent or a spouse;
- 2.7 **Member** - shall mean a Member of Council and includes the Mayor;
- 2.8 **Parent** – shall mean a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- 2.9 **Spouse** - shall mean a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

3. Applicability

- 3.1 This Code of Conduct applies to the Mayor and all Members of Council.

4. The Code

Rule 1 - Key Principles and Framework

- 1.1 The Code is to be given a broad, liberal interpretation in accordance with the applicable legislation, the definitions set out herein and its general intent and purposes.
- 1.2 The Code operates together with, and as a supplement to, the following legislation that governs the conduct of Members:

- (i) *Municipal Act, 2001;*
- (ii) *Municipal Conflict of Interest Act;*
- (iii) *Municipal Elections Act, 1996;*
- (iv) *Municipal Freedom of Information and Protection of Privacy Act;*
- (v) *Provincial Offences Act;*
- (vi) *Occupational Health and Safety Act;*
- (vii) *Ontario Human Rights Code;*
- (viii) *Criminal Code of Canada; and*
- (ix) the by-laws and policies of Council as adopted and amended from time to time.

1.3 Members are governed by the *Municipal Conflict of Interest Act* which contains the following principles in relation to the duties of Members:

- 1. The importance of integrity, independence and accountability in local government decision-making.
- 2. The importance of certainty in reconciling the public duties and pecuniary interest of Members.
- 3. Members are expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny.
- 4. There is a benefit to municipalities and local boards when Members have a broad range of knowledge and continue to be active in their own communities, whether in business, in the practice of a profession, in community associations and otherwise.

1.4 Members seeking clarification of any part of this Code should consult with the Integrity Commissioner and submit such requests in writing.

1.5 Any advice given by the Integrity Commissioner to a Member shall be in writing and 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.

1.6 In carrying out their responsibilities regarding the Code, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member and, for clarity, the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

Rule 2 - General Rules

2.1 Members shall serve and be seen to serve their constituents in a conscientious, accountable, transparent and diligent manner.

2.2 Members shall be committed to performing their functions with integrity, independence and impartiality and avoid the improper use of the influence of their office, and conflicts of interest, including apparent conflicts of interest.

2.3 Members shall not extend favour in the discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family members have a direct or indirect pecuniary interest.

2.4 Members are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

2.5 Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature, and the by-laws and policies of the Corporation.

2.6 Members shall accurately and adequately communicate the decisions of the Council, even if they disagree with Council's decision, such that the respect for the decision-making processes of Council is fostered.

Rule 3 - Confidential Information

3.1 Members shall hold in strict confidence all information concerning matters dealt with at a meeting closed to the public under the *Municipal Act* or any other Act. For greater certainty, information shall include, without limitation, documents, records, advice received, presented, reviewed or discussed at a closed meeting and any discussion, direction and deliberation during the closed meeting. A Member shall not, either directly or indirectly, disclose, release, make public or in any way divulge any such information or any aspect of a closed meeting to anyone unless expressly authorized by Council or required by law.

3.2 A Member shall not collect, use, or disclose information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

3.3 A Member shall not disclose information that is subject to solicitor-client privilege, unless the privilege has been expressly waived by Council.

3.4 A Member shall not misuse any confidential information such that the release thereof may cause detriment to the Corporation, Council, the public or others or benefit or detriment to themselves or others. For greater certainty, confidential information includes, without limitation, information that a Member has knowledge of by virtue of their position as a Member that is not in the public domain, including emails, and oral and written communications from other Members or third parties.

Rule 4 - Conduct at Meetings and When Representing the Council or the Corporation

4.1 A Member shall conduct themselves with appropriate decorum at all times.

4.2 A Member shall conduct themselves at meetings of Council, committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official, with decorum in accordance with the provisions of the applicable procedure by-law.

4.3 A Member shall make every effort to participate diligently in the activities of the Council and the committees, agencies, local boards and commissions to which they are appointed by the Council, or by virtue of being an elected official.

Rule 5 - Incompatible Activity

5.1 A Member shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of their official duties in the public interest.

5.2 Without limiting the generality of the foregoing, a Member shall not:

- a) use the influence of their office for any purpose other than for the exercise of their official duties;
- b) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- c) use any information gained in the execution of office that is not available to the general public for any purpose other than for official duties;

- d) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- e) give preferential treatment to any person or organization in which a Member has a financial interest;
- f) influence any administrative or Council decision or decision-making process involving or affecting any person or organization in which a Member has a financial interest;
- g) use the Corporation's property, materials, equipment, services, supplies, facilities, officers, employees, agents or contractors for personal gain, personal purpose or for any private purpose; or
- h) influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the *Provincial Offences Act*.

5.3 A Member shall not allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties.

5.4 A Member shall avoid waste, abuse and extravagance in the provision or use of public resources.

5.5 A Member shall expose fraud and corruption of which the Member is aware.

Rule 6 - Conduct Respecting Staff

6.1 A Member shall be respectful of the Corporation's officers, employees, individuals contracted by the Corporation on a purchase of service agreement and students on placements, role to provide advice based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council or a committee.

6.2 No Member shall injure the professional or ethical reputation, or the prospect or practice of an officer or employee of the Corporation, an individual contracted by the Corporation on a purchase of service agreement or a student on placement, and all Members shall show respect for the professional capacities of such persons.

6.3 No Member shall compel or attempt to compel an officer and employee of the Corporation to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.

6.4 No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any officer or employee of the Corporation, individual contracted by the Corporation on a purchase of service agreement or a student on placement with the intent of interfering in that employee's duties, including the duty to disclose improper activity.

6.5 Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from an individual Member or group of Members.

Rule 7 - Discreditable Conduct

7.1 Members have a duty to treat members of the public, one another, individuals contracted by the Corporation on a purchase of service agreement, students on placement and officers and employees of the Corporation appropriately and without abuse, bullying or intimidation and to ensure that their work environment is safe and free from discrimination and harassment. *The Ontario Human Rights Code* and the *Occupational Health and Safety Act* apply and, where applicable, the Corporation's Workplace Harassment and Discrimination Prevention Policy.

7.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member that relates to the Corporation's Workplace Harassment and Discrimination Prevention Policy, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources which, in the event mediation or other informal attempts to resolve the complaint as provided for in the applicable policy are not appropriate or prove ineffective and where Human Resources determines that further inquiry is warranted, will refer it to an external investigator to conduct an independent investigation in accordance with the applicable policy and the Corporation's Formal Investigation Process.

7.3 Upon receipt of the report of the independent investigator, the Integrity Commissioner shall make a determination on the application of this Code of Conduct and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.

Rule 8 - Requirement to Adhere to Council Policies and Procedures

8.1 Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

Rule 9 - Gifts, Benefits and Hospitality

9.1 No inappropriate gifts and hospitality are allowed that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

9.2 No Member shall accept, solicit, offer or agree to accept a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit that is connected directly or indirectly with the performance of their duties of office unless permitted by the exceptions listed in section 3.4 below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than fair market value or at no cost.

9.3 For the purpose of this Code a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit provided with the Member's knowledge to a friend, family member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

9.4 Members are not precluded from accepting:

- a) contributions authorized by law;
- b) political contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- c) food and beverages at banquets, receptions, ceremonies or similar events, if:

- i) attendance serves a legitimate business purpose;
 - ii) the person extending the invitation or a representative of the organization is in attendance; and
 - iii) the value is reasonable and the invitations infrequent;
- d) services without compensation by persons volunteering their time;
- e) food, lodging, transportation, hospitality and entertainment provided by other levels of government, by other local governments, boards or commissions or by a foreign government within a foreign country;
- f) a reimbursement of reasonable expenses incurred in the performance of duties or office;
- g) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with municipal associations;
- h) token gifts such as souvenirs, mementos and commemorative gifts that are given in recognition of service on a committee, for speaking at an event or representing the Corporation at an event; and
- i) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

9.5 A Member shall return any gift or benefit which does not comply with this Code, along with an explanation why the gift or benefit cannot be accepted.

9.6 In the case of exceptions claimed under 3.4 (c), (e), (h) and (i), if the value of the gift, hospitality or benefit exceeds \$300.00, or if the total value of gifts, hospitality or benefits received from one source during the course of a calendar year exceeds \$300.00, the Members shall within 30 days of receipt of the gift, hospitality or benefit or reaching the annual limit, complete a disclosure statement in a form prescribed by the Integrity Commissioner and file it with the Integrity Commissioner. A disclosure statement shall be a matter of public record.

9.7 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift, hospitality or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, they shall call upon the Member to justify receipt of the gift, hospitality or benefit.

Rule 10 - Requirement to Adhere to Council Policies and Procedures

10.1 Members shall adhere to such by-laws, policies and procedures adopted by the Council that are applicable to them.

Rule 11 - Use of Municipal Property and Resources

11.1 In order to fulfil their roles as elected representatives Members have access to municipal resources such as property, equipment, services, staff and supplies. No Member shall use, or permit the use of Corporate land, facilities, equipment, supplies, services, staff or other resources for activities other than purposes connected with the discharge of Council or Corporate business.

Rule 12 - Election-Related Activity

12.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the Policy for the Use of City of London Resources for Municipal Election Purposes. Member shall not solicit, demand or accept the services of any corporate officer and employee, or individual providing services on a contract for service, for re-election purposes during hours in which the officer, employee, or individual providing services under a contract for service, is in the paid employment of the Corporation.

Rule 13 - Integrity Commissioner

13.1 It is a violation of the Code to obstruct the Integrity Commissioner in the carrying out of their duties and responsibilities.

13.2 No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code or against a person who provides information to the Integrity Commissioner in any investigation.

13.3 It is a violation of the Code to destroy any documents or erase any electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code.

13.4 The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and
- (d) removal as a chair of a committee.

The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial actions at their discretion.

13.5 Upon receipt of a recommendation from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

13.6 The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether a Member has contravened section 5, 5.1 or 5.2 of the Act.

**THE CORPORATION OF THE CITY OF LONDON
CODE OF CONDUCT FOR MEMBERS OF COUNCIL
COMPLAINT PROTOCOL**

AUTHORITY

Section 223.3 of the *Municipal Act, 2001* authorizes a municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the powers and duties assigned by the municipality with respect to the application of the Code of Conduct for Members of Council. Sections 223.4 of the *Municipal Act, 2001* provides that an Integrity Commissioner has certain powers duties and protections.

The Code of Conduct for Members of Council was adopted by Council by By-law No. A.-6957-158 on April 30, 2013 and amended by By-law No. CPOL.-_____ on March 26, 2019

This Complaint Protocol was adopted by Council by By-law No. CPOL.-_____ on March 26, 2019.

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or any representative of an organization who has identified or witnessed behaviour or an activity by a Member of Council that they believe is in contravention of the *Code of Conduct for Members of Council* (the “Code”) may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member that the behaviour or activity contravenes the Code;
- (2) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- (5) if applicable, confirm to the Member your satisfaction with the response of the Member; or, if applicable, advise the member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the Member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries - Section 1

1. (1) A request for an investigation of a complaint that a Member has contravened the Code (the “complaint”) shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier and shall be in writing.
- (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code. For example, the complaint should include the name of the alleged violator, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) Municipal Council may also file a complaint and/or request an investigation of any of its members by public motion.

Initial Classification by Integrity Commissioner - Section 2

2. (1) Upon receipt of the complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or other Council Policies as described in subsection (2).
- (2) If the complaint is not, on its face, a complaint with respect to non-compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Council Policy, the Integrity Commissioner shall advise the complainant in writing as follows:
 - (a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
 - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the City Clerk;
 - (c) if the complaint on its face is with respect to non-compliance with a more specific Council policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure;
 - (d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a Human Rights complaint or similar process, the Integrity Commissioner may, in their sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and,
 - (e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

(3) The Integrity Commissioner may report to Municipal Council that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

(4) The Integrity Commissioner shall report semi - annually to Municipal Council on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation - Sections 3 – 9

3. (1) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

(2) Other than in exceptional circumstances, the Integrity Commissioner will not report to Municipal Council on any complaint described in subsection (1) except as part of a semi- annual or other periodic report.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and in so doing, at any time may attempt to settle the complaint.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation, which may include mediation, or alternatively to exercise the powers of a Commission under sections 33 and 34 of the *Public Inquiries Act*, 2009 as contemplated by subsection 223.4(2) of the Act.

(3) When the *Public Inquiries Act*, 2009 applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act*, 2009 the provision of the *Public Inquiries Act*, 2009 prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act*, 2009:

(a) serve the complainant and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten business days; and

(b) serve a copy of the response provided upon the complainant with a request for a written reply within ten business days.

(2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any City work location relevant to the complaint for the purposes of investigation and settlement.

(3) The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty.

(4) The Integrity Commissioner may make interim reports to Municipal Council where necessary and as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

(5) If the Integrity Commissioner has not completed an investigation before Nomination Day for a regular election, as set out in the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

If an investigation is terminated in accordance with subsection 223.4(7) of the *Municipal Act, 2001*, the Integrity Commissioner shall not commence another inquiry in respect to the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the investigation be commenced.

(6) The Integrity Commissioner shall retain all records related to the complaint and investigation.

6. Notwithstanding any other provisions of this Protocol, in the year of a regular election the following rules apply during the period starting on Nomination Day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on Voting Day in a regular election, as set out in section 5 of the Act:

(i) there shall be no requests for an inquiry about whether a Member has contravened the Code applicable to the Member;

(ii) the Integrity Commissioner shall not report to the municipality about whether in their opinion, a Member has contravened the Code applicable to the Member; and,

(iii) the municipality shall not consider whether to impose penalties referred to in subsection 223.4(5) of the *Municipal Act, 2001*, on a Member.

7. (1) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to Municipal Council outlining the findings, the terms of any settlement or recommended penalty. The City Clerk shall process the report for the next meeting of Municipal Council.

(3) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

(4) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Municipal Council except as part of a semi-annual or other periodic report.

8. If the Integrity Commissioner determines that there has been no contravention of the Code or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Notwithstanding any other provision of this Protocol, the Integrity Commissioner shall not make any report to Municipal Council or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Municipal Council Review – Section 10

10. (1) Municipal Council shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) Municipal Council shall not consider whether to impose sanctions on a Member, where the Integrity Commissioner makes a report to the Municipal Council regarding a contravention of the Code, during the period of time starting on Nomination Day and ending on Voting Day in a year in which a regular election will be held, as set out in the *Municipal Elections Act, 1996*.

(3) In responding to the report, Municipal Council may vary a recommendation that imposes a penalty, subject to section 223.4, subsection (5) of the *Municipal Act, 2001*, but shall not refer the recommendation other than back to the Integrity Commissioner.

(4) Upon receipt of recommendations from the Integrity Commissioner, Municipal Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code impose either of two penalties:

- (a) a reprimand; or
- (b) suspension of the remuneration paid to the member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

(5) The Integrity Commissioner may also recommend that Municipal Council impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and,
- (d) removal as a chair of a committee.

(6) The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether the member has contravened sections 5, 5.1 or 5.2 of the Act.

Confidentiality – Section 11

11. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.

(2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.

(3) All reports from the Integrity Commissioner to Council will be made available to the public.

(4) Any references by the Integrity Commissioner in a semi-annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council on whether a member has violated the Code shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

APPENDIX “B”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a new Council policy entitled
“Code of Conduct for Local Boards”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a new Council Policy entitled “Code of Conduct for Local Boards” in accordance with regulations resulting from recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* requiring municipalities to codes of conducts for local boards;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Code of Conduct for Local Boards”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Code of Conduct for Local Boards

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

- 1.1 This Code of Conduct is established under the authority of Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, as amended.

2. Definitions

In this Code of Conduct:

- 2.1 **Adjudicative Board** – shall mean a local board as defined in Section 223.1 of the *Municipal Act, 2001* which has the statutory power or right to make a decision;
- 2.2 **Apparent conflict of interest** – shall mean if there is a reasonable perception, which a reasonably well-informed person could properly have, that the Member’s ability to exercise an official power or perform an official duty or function must have been affected by their private interest;
- 2.3 **Child** – shall mean a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of their family;
- 2.4 **Code** – shall mean this Code of Conduct;
- 2.5 **Corporation** - shall mean The Corporation of the City of London;
- 2.6 **Council** - shall mean the Council of The Corporation of the City of London;
- 2.7 **Family member** - shall mean a child, parent or a spouse;
- 2.8 **Local board** – shall mean a local board as defined in section 223.1 of the *Municipal Act, 2001*;
- 2.9 **Member** - shall mean a Member of an adjudicative board or local board;
- 2.10 **Parent** – shall mean a parent who has demonstrated a settled intention to treat a child as a member of their family whether or not that person is the natural parent of the child;
- 2.11 **Spouse** - shall mean a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage.

3. Applicability

- 3.1 This Code of Conduct applies to Members of the City of London’s local boards, including adjudicative boards. Members of Council are bound by the Code of Conduct for Members of Council.

4. The Code

Rule 1 - Key Principles and Framework

1.1 The Code is to be given a broad, liberal interpretation in accordance with the applicable legislation, the definitions set out herein and its general intent and purposes.

1.2 The Code operates together with, and as a supplement to, the following legislation that governs the conduct of Members:

- (i) *Municipal Act, 2001*;
- (ii) *Municipal Conflict of Interest Act*;
- (iii) *Municipal Elections Act, 1996*;
- (iv) *Municipal Freedom of Information and Protection of Privacy Act*;
- (vi) *Occupational Health and Safety Act*;
- (vii) *Ontario Human Rights Code*;
- (viii) *Criminal Code of Canada*; and
- (ix) the by-laws and policies of the local board as adopted and amended from time to time.

Rule 2 - General Rules

2.1 Members shall serve and be seen to serve in a conscientious, accountable, transparent and diligent manner.

2.2 Members shall be committed to performing their functions with integrity, independence and impartiality and to avoid the improper use of the influence of their position, and conflicts of interest, including apparent conflicts of interest.

2.3 Members shall not extend favour in the discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family members have a direct or indirect pecuniary interest.

2.4 Members are expected to perform their duties and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.

2.5 Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws of the Federal Parliament, the Ontario Legislature, and the by-laws and policies of the local board.

2.6 Members shall accurately and adequately communicate the decisions of the local board, even if they disagree with the local board's decision, such that the respect for the decision-making processes of the local board is fostered.

Rule 3 - Confidential Information

3.1 Members of local boards may acquire confidential information from a variety of different resources in the course of their work. Confidential information includes information in the possession of, or received in confidence by the local board, that local board is either prohibited from disclosing, or is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act*.

3.2 A Member shall not collect, use, or disclose information in contravention of the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.

3.3 A Member shall not disclose information that is subject to solicitor-client privilege, unless the privilege has been expressly waived by the local board.

3.4 A Member shall not misuse any confidential information such that the release thereof may cause detriment to the local board, the Corporation, the public or others or benefit or detriment to themselves or others. For greater certainty, confidential information includes, without limitation, information that a Member has knowledge of by virtue of their position as a Member that is not in the public domain, including emails, and oral and written communications from other Members or third parties.

Rule 4 - Conduct at Meetings and When Representing the Local Board

4.1 A Member shall conduct themselves with appropriate decorum at all times.

4.2 A Member shall conduct themselves at meetings with decorum in accordance with the provisions of the applicable procedures.

4.3 A Member shall make every effort to participate diligently in the activities of the local board.

Rule 5 - Incompatible Activity

5.1 A Member shall not engage in any activity, financial or otherwise, which is incompatible or inconsistent with the ethical discharge of their official duties in the public interest.

5.2 Without limiting the generality of the foregoing, a Member shall not:

- i) use the influence of their position for any purpose other than for the exercise of their official duties;
- ii) act as an agent before Council, any committee, board or commission of Council or the City's Hearings Officer;
- iii) use any information gained in the execution of their position that is not available to the general public for any purpose other than for official duties;
- iv) place themselves in a position of obligation to any person or organization which might reasonably benefit from special consideration or may seek preferential treatment;
- v) give preferential treatment to any person or organization in which a Member has a financial interest;
- vi) influence any administrative or local board decision or decision-making process involving or affecting any person or organization in which a Member has a financial interest;
- vii) use the Corporation's or local board's property, materials, equipment, services, supplies, facilities, officers, employees, agents or contractors for personal gain, personal purpose or for any private purpose; or
- viii) influence or interfere, either directly or indirectly, financially, politically or otherwise with employees, officers or other persons performing duties under the *Provincial Offences Act*.

5.3 A Member shall not allow the prospect of their future employment by a person or entity to detrimentally affect the performance of their duties.

5.4 A Member shall avoid waste, abuse and extravagance in the provision or use of public resources.

5.5. A Member shall expose fraud and corruption of which the Member is aware.

Rule 6 - Conduct Respecting Staff

6.1 A Member shall be respectful of the local board's or Corporation's officers, employees, individuals contracted by the local board or Corporation on a purchase of service agreement and students on placements role to provide advice based on neutrality and objectivity and without undue influence from any individual Member or faction of the local board.

6.2 No Member shall injure the professional or ethical reputation, or the prospect or practice of an officer or employee of the local board or Corporation, an individual contracted by the local board or Corporation on a purchase of service agreement or a student on placement, and all Members shall show respect for the professional capacities of such persons.

6.3 No Member shall compel or attempt to compel an officer and employee of the Corporation or local board to engage in partisan activities or be subjected to threats or discrimination for refusing to engage in such activities.

6.4 No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any officer and employee of the local board or Corporation, individual contracted by the local board or Corporation on a purchase of service agreement or a student on placement with the intent of interfering in that employee's duties, including the duty to disclose improper activity.

Rule 7 - Discreditable Conduct

7.1 Members have a duty to treat members of the public, one another, individuals contracted by the local board or Corporation on a purchase of service agreement, students on placement and officers and employees of the local board or Corporation appropriately and without abuse, bullying or intimidation and to ensure that their work environment is safe and free from discrimination and harassment. *The Ontario Human Rights Code* and the *Occupational Health and Safety Act* apply and, where applicable, the local board policies.

7.2 Upon receipt of a complaint with respect to alleged discreditable conduct of a Member, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources which, in the event mediation or other informal attempts to resolve the complaint as provided for in the applicable policy are not appropriate or prove ineffective and where Human Resources determines that further inquiry is warranted, will refer it to an external investigator to conduct an independent investigation.

7.3 Upon receipt of the report of the independent investigator, the Integrity Commissioner shall make a determination on the application of this Code of Conduct and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to the local board as per the normal procedure respecting such matters.

Rule 8 - Requirement to Adhere to Council and Local Board Policies and Procedures

8.1 Members shall adhere to such by-laws, policies and procedures adopted by the local board and Council that are applicable to them.

Rule 9 - Gifts, Benefits and Hospitality

9.1 No inappropriate gifts and hospitality are allowed that would, to a reasonable member of the public, appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.

9.2 No Member shall accept, solicit, offer or agree to accept a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit that is connected directly or indirectly with the performance of their duties unless permitted by the exceptions listed in section 9.4 below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than fair market value or at no cost.

9.3 For the purpose of this Code a commission, fee, advance, cash, gift, hospitality, gift certificate, bonus, reward or benefit provided with the Member's knowledge to a friend, family member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

9.4 Members are not precluded from accepting:

- a) contributions authorized by law;
- b) contributions that are otherwise offered, accepted and reported in accordance with applicable law;
- c) food and beverages at banquets, receptions, ceremonies or similar events, if:
 - i) attendance serves a legitimate business purpose;
 - ii) the person extending the invitation or a representative of the organization is in attendance; and
 - iii) the value is reasonable and the invitations infrequent;
- d) services without compensation by persons volunteering their time;
- e) food, lodging, transportation, hospitality and entertainment provided by other levels of government, by other local governments, boards or commissions or by a foreign government within a foreign country;
- f) a reimbursement of reasonable expenses incurred in the performance of duties or office;
- g) a reimbursement of reasonable expenses incurred and honorariums received in the performance of activities connected with associations;
- h) token gifts such as souvenirs, mementos and commemorative gifts that are given in recognition of service on a committee, for speaking at an event or representing the Corporation or, local board at an event; and
- i) gifts that are received as an incident of protocol or social obligation that normally and reasonably accompany the responsibility of office.

9.5 A Member shall return any gift or benefit which does not comply with this Code, along with an explanation why the gift or benefit cannot be accepted.

9.6 In the case of exceptions claimed under 9.4 (c), (e), (h) and (i), if the value of the gift, hospitality or benefit exceeds \$300.00, or if the total value of gifts, hospitality or benefits received from one source during the course of a calendar year exceeds \$300.00, the Members shall within 30 days of receipt of the gift, hospitality or benefit or

reaching the annual limit, complete a disclosure statement in a form prescribed by the Integrity Commissioner and file it with the Integrity Commissioner. A disclosure statement shall be a matter of public record.

9.7 On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the receipt of the gift, hospitality or benefit might, in their opinion, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, they shall call upon the Member to justify receipt of the gift, hospitality or benefit.

Rule 10 - Requirement to Adhere to Council and Local Board Policies and Procedures

10.1 Members shall adhere to such by-laws, policies and procedures adopted by the local board or Council that are applicable to them.

Rule 11 - Use of Municipal or Local Board Property and Resources

11.1 In order to fulfil their position Members have access to municipal or local board resources such as property, equipment, services, staff and supplies. No Member shall use or permit the use of Corporate or local board land, facilities, equipment, supplies, services, staff or other resources for activities other than the purposes connected with the discharger of their position.

Rule 12 - Election-Related Activity

12.1 Members are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and the local board's policy regarding the use of local board resources during the election campaign period (as required under section 88.18 of the *Municipal Elections Act, 1996*). No Member shall solicit, demand or accept the services of any officer and employee, or individual providing services on a contract for service, for re-election purposes during hours in which the officer, employee, or individual providing services under a contract for service, is in the paid employment of the Corporation;

12.2 The use of local board resources, both actual property and staff time, for election-related activity is strictly prohibited. The prohibition applies to both the promotion and opposition to the candidacy of a person for election office. Election-related activity applies to campaigns for municipal, provincial and federal office.

Rule 13 - Outside Activities

13.1 Members shall not be a director or hold an executive position with any organization whose objectives and mandates are in conflict with, or may reasonably be perceived to be in conflict with, the objectives and mandates of the local board. Before taking on a new executive position, the member shall inform the Chair of the local board and the Integrity Commissioner to obtain advice about the new circumstances.

Rule 14 - Communications with Adjudicative Boards

14.1 Communications with members of an adjudicative board by a party or their representative must be through the board administrator and/or during the appropriate proceeding.

Written communication to the adjudicative board shall be made through the board administrator and shall be copied to all parties or their representatives as appropriate. Oral communications with the adjudicative board shall take place during formal proceedings of the adjudicative board and in the presence of all parties.

Rule 15 - Independent Nature of Adjudicative Boards

15.1 Members of adjudicative boards operate at arms-length from and independently of Council and the Civic Administration. Members should maintain the board's independence and ensure their actions are consistent with the arms-length, quasi-judicial nature of an adjudicative board.

Rule 16 - Integrity Commissioner

16.1 It is a violation of the Code to obstruct the Integrity Commissioner in the carrying out of their duties and responsibilities.

16.2 No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the Code or against a person who provides information to the Integrity Commissioner in any investigation.

16.3 It is a violation of the Code to destroy any documents or erase any electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the Code.

16.4 Upon receipt of a recommendation from the Integrity Commissioner, the local board may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code of Conduct, impose either:

- a) removal from membership of a committee of the local board;
- b) removal as chair of the local board or a committee of the local board;
- c) written or verbal public apology; and
- d) return of property or reimbursement of its value or of monies spent;.

16.5 The Integrity Commissioner may also recommend that Council revoke the member's appointment to the local board.

16.6 The Integrity Commissioner has the final authority to recommend any of the sanctions above or other remedial actions at their discretion.

**THE CORPORATION OF THE CITY OF LONDON
CODE OF CONDUCT FOR MEMBER OF LOCAL BOARDS
COMPLAINT PROTOCOL**

AUTHORITY

Section 223.3 of the *Municipal Act, 2001* authorizes a municipality to appoint an Integrity Commissioner who reports to council or local board and who is responsible for performing in an independent manner the powers and duties assigned by the municipality with respect to the application of the Code of Conduct for Members of Local Boards.

Section 223.4 of the *Municipal Act, 2001* provides that an Integrity Commissioner has certain powers, duties and protections.

The Code of Conduct for Members of Local Boards was adopted by Council by By-law CPOL.- _____ on March 26, 2019.

This Complaint Protocol was adopted by Council by By-law CPOL.- _____ on March 26, 2019.

PART A: INFORMAL COMPLAINT PROCEDURE

Any person or any representative of an organization who has identified or witnessed behaviour or an activity by a Member of a Local Board that they believe is in contravention of the *Code of Conduct for Members of Local Boards* (the “Code”) may wish to address the prohibited behaviour or activity themselves as follows:

- (1) advise the Member that the behaviour or activity contravenes the Code;
- (2) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity;
- (3) keep a written record of the incidents including dates, times, locations, other persons present, and any other relevant information;
- (4) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to resolve the issue;
- (5) if applicable, confirm to the Member your satisfaction with the response of the Member; or, if applicable, advise the Member of your dissatisfaction with the response; and
- (6) consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with another applicable judicial or quasi-judicial process or complaint procedure.

All persons and organizations are encouraged to initially pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that is prohibited by the Code. With the consent of the complaining individual or organization and the Member, the Integrity Commissioner may be part of any informal process. However, it is not a precondition or a prerequisite that those complaining must pursue the informal complaint procedure before pursuing the Formal Complaint Procedure in Part B.

PART B: FORMAL COMPLAINT PROCEDURE:

Integrity Commissioner Requests for Inquiries - Section 1

1. (1) A request for an investigation of a complaint that a Member has contravened the Code (the “complaint”) shall be sent directly to the Integrity Commissioner by mail, e-mail, fax or courier and shall be in writing.
- (2) All complaints shall be signed by an identifiable individual (which includes the authorized signing officer of an organization).
- (3) A complaint shall set out reasonable and probable grounds for the allegation that the Member has contravened the Code. For example, the complaint should include the name of the alleged violator, the provision of the Code allegedly contravened, facts constituting the alleged contravention, the names and contact information of witnesses, and contact information for the complainant during normal business hours.
- (4) The Local Board may also file a complaint and/or request an investigation of any of its members by public motion.

Initial Classification by Integrity Commissioner - Section 2

2. (1) Upon receipt of the complaint, the Integrity Commissioner shall make an initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code and not covered by other legislation or other Local Board Policies as described in subsection (2).
- (2) If the complaint is not, on its face, a complaint with respect to non-compliance with the Code or the complaint is covered by other legislation or a complaint procedure under another Local Board Policy, the Integrity Commissioner shall advise the complainant in writing as follows:
 - (a) if the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code of Canada*, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate police force;
 - (b) if the complaint on its face is with respect to non-compliance with the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter will be referred for review to the Head under the Act;
 - (c) if the complaint on its face is with respect to non-compliance with a more specific Local Board Policy with a separate complaint procedure, the complainant shall be advised that the matter will be processed under that procedure;
 - (d) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a Human Rights complaint or similar process, the Integrity Commissioner may, in their sole discretion and in accordance with legislation, suspend any investigation pending the result of the other process; and,
 - (e) in other cases, the complainant shall be advised that the matter, or part of the matter, is not within the jurisdiction of the Integrity Commissioner to process, with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

(3) The Integrity Commissioner may report to the Local Board that a specific complaint is not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

(4) The Integrity Commissioner shall report semi - annually to the Local Board on complaints not within the jurisdiction of the Integrity Commissioner, but shall not disclose information that could identify a person concerned.

Integrity Commissioner Investigation - Sections 3 – 9

3. (1) If the Integrity Commissioner is of the opinion that a complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, or, where that becomes apparent in the course of an investigation, terminate the investigation.

(2) Other than in exceptional circumstances, the Integrity Commissioner will not report to the Local Board on any complaint described in subsection (1) except as part of a semi- annual or other periodic report.

4. (1) If a complaint has been classified as being within the Integrity Commissioner's jurisdiction and not rejected under section 3, the Commissioner shall investigate and in so doing, at any time may attempt to settle the complaint.

(2) Upon receipt of a formal complaint pursuant to the Code, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation, which may include mediation, or alternatively to exercise the powers of a Commission under sections 33 and 34 of the *Public Inquiries Act, 2009* as contemplated by subsection 223.4(2) of the Act.

(3) When the *Public Inquiries Act, 2009* applies to an investigation of a complaint, the Integrity Commissioner shall comply with the procedures specified in that Act and this Complaint Protocol, but, if there is a conflict between a provision of the Complaint Protocol and a provision of the *Public Inquiries Act, 2009*, the provision of the *Public Inquiries Act, 2009* prevails.

5. (1) The Integrity Commissioner will proceed as follows, except where otherwise required by the *Public Inquiries Act, 2009*:

(a) serve the complainant and supporting material upon the Member whose conduct is in question with a request that a written response to the allegation by way of affidavit or otherwise be filed within ten business days; and

(b) serve a copy of the response provided upon the complainant with a request for a written reply within ten business days.

(2) If necessary, after reviewing the written materials, the Integrity Commissioner may speak to anyone relevant to the complaint, access and examine any of the information described in subsections 223.4(3) and (4) of the *Municipal Act*, and may enter any Local Board or if necessary, City work location relevant to the complaint for the purposes of investigation and settlement.

(3) The Integrity Commissioner shall not issue a report finding a violation of the Code on the part of any Member unless the Member has had reasonable notice of the basis for the proposed finding and any recommended penalty and an opportunity either in person or in writing to comment on the proposed finding and any recommended penalty.

(4) The Integrity Commissioner may make interim reports to the Local Board where necessary and as required to address any instances of interference, obstruction or retaliation encountered during an investigation.

(5) If the Integrity Commissioner has not completed an investigation before Nomination Day for a regular election, as set out in the *Municipal Elections Act, 1996*, the Integrity Commissioner shall terminate the inquiry on that day.

If an investigation is terminated in accordance with subsection 223.4(7) of the *Municipal Act, 2001*, the Integrity Commissioner shall not commence another inquiry in respect to the matter unless, within six weeks after Voting Day in a regular election, the complainant who made the request or the Member or former Member whose conduct is concerned makes a written request to the Integrity Commissioner that the investigation be commenced.

(6) The Integrity Commissioner shall retain all records related to the complaint and investigation.

6. Notwithstanding any other provisions of this Protocol, in the year of a regular election the following rules apply during the period starting on Nomination Day for a regular election, as set out in section 31 of the *Municipal Elections Act, 1996* and ending on Voting Day in a regular election, as set out in section 5 of the Act:

(i) there shall be no requests for an inquiry about whether a Member has contravened the Code applicable to the Member;

(ii) the Integrity Commissioner shall not report to the municipality about whether in their opinion, a Member has contravened the Code applicable to the Member; and,

(iii) the municipality shall not consider whether to impose penalties referred to in subsection 223.4(5) of the *Municipal Act, 2001*, on a Member.

7. (1) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the intake process has been completed and an investigation has been commenced. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall also report to the Local Board outlining the findings, the terms of any settlement or recommended penalty. The secretary of the Local Board shall process the report for the next meeting of the Local Board.

(3) Any recommended corrective action must be permitted in law and shall be designed to ensure that the inappropriate behavior or activity does not continue.

(4) Where the complaint is dismissed, other than in exceptional circumstances, the Integrity Commissioner shall not report to Local Board except as part of a semi-annual or other periodic report.

8. If the Integrity Commissioner determines that there has been no contravention of the Code or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgment made in good faith, the Integrity Commissioner shall so state in the report and shall recommend that no penalty be imposed.

9. Notwithstanding any other provision of this Protocol, the Integrity Commissioner shall not make any report to the Local Board or to any other person during the period of time starting on Nomination Day and ending on Voting Day in any year in which a regular municipal election will be held, as set out in the *Municipal Elections Act, 1996*.

Local Board Review – Section 10

10. (1) The Local Board shall consider and respond to the report within 90 days after the day the report is laid before it.

(2) The Local Board shall not consider whether to impose sanctions on a Member, where the Integrity Commissioner makes a report to the Local Board regarding a contravention of the Code, during the period of time starting on Nomination Day and ending on Voting Day in a year in which a regular election will be held, as set out in the *Municipal Elections Act, 1996*.

(3) In responding to the report, the Local Board may vary a recommendation that imposes a penalty, subject to section 223.4, subsection (5) of the *Municipal Act, 2001*, but shall not refer the recommendation other than back to the Integrity Commissioner.

(4) Upon receipt of recommendations from the Integrity Commissioner, the Local Board may, in circumstances where the Integrity Commissioner has determined there has been a violation of the Code impose either of two penalties:

- (a) a reprimand; or
- (b) suspension of the remuneration paid to the member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days.

(5) The Integrity Commissioner may also recommend that Local Board impose one of the following sanctions:

- (a) written or verbal public apology;
- (b) return of property or reimbursement of its value or of monies spent;
- (c) removal from membership of a committee; and,
- (d) removal as a chair of a committee.

(6) The Integrity Commissioner has the authority to apply sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* and investigate complaints or initiate an investigation of suspected violations of the Act. If the Integrity Commissioner determines that a violation has occurred, the Integrity Commissioner may apply to a judge for determination of the questions of whether the member has contravened sections 5, 5.1 or 5.2 of the Act.

Confidentiality – Section 11

11. (1) A complaint will be processed in compliance with the confidentiality requirements in sections 223.5 and 223.6 of the *Municipal Act*, which are summarized in the following subsections.

(2) The Integrity Commissioner and every person acting under her or his instructions shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of any investigation except as required by law in a criminal proceeding.

(3) All reports from the Integrity Commissioner to Council will be made available to the public.

(4) Any references by the Integrity Commissioner in a semi-annual or other periodic report to a complaint or an investigation shall not disclose confidential information that could identify a person concerned.

(5) The Integrity Commissioner in a report to Council on whether a member has violated the Code shall only disclose such matters as in the Integrity Commissioner's opinion are necessary for the purposes of the report.

APPENDIX “C”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference” to address recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “The Corporation of the City of London Integrity Commissioner Terms of Reference”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: The Corporation of the City of London

Legislative History: Terms of Reference adopted September 2, 2014

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a Terms of Reference for The Corporation of City of London Integrity Commissioner in accordance with section 223.3 of the *Municipal Act, 2001*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council and Local Boards.

4. The Policy

4.1 The Integrity Commissioner is an independent officer, appointed by Council by by-law passed under section 223.3 of the *Municipal Act, 2001*. The Integrity Commissioner reports directly to Council or Local Boards and functions independently of the Civic Administration and Local Board Administration.

4.2 Municipal Council

In accordance with section 223.3(1) of the *Municipal Act, 2001*, the Integrity Commissioner shall carry out the following functions:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.
2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

The duties of the Integrity Commissioner with respect to Municipal Council are to:

- a) provide advice to Members of Council on the application of the City's Code of Conduct for Members of Council and any procedures, rules and policies of the municipality governing the ethical behaviour of Members of Council;
- b) provide advice to Members of Council on the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;
- c) receive and conduct such formal or informal processes as may be appropriate (including inquiries or mediations), in accordance with the Council approved Complaint Protocol, concerning complaints by the Council, or any person that a Member of Council has contravened the City's Code of Conduct for Members of Council, the *Municipal Conflict of Interest Act*, or rules and policies of the municipality governing the ethical behaviour of Members of Council;
- d) report to Council, in writing, where an inquiry under part c) has been conducted and the Integrity Commissioner is of the opinion that a Member of Council has contravened the Code of Conduct for Members of Council and/or and include any recommendations with respect to the inquiry for the Council to consider;
- e) report to Council annually, in writing, summarizing any activities undertaken and advice given; and,
- f) provide such training and written reference materials, upon the request of Municipal Council, for distribution to and use by Members of Council and the public regarding the role of the Integrity Commissioner, the obligations and responsibilities of Members of Council under the City's Code of Conduct for Members of Council and under the *Municipal Conflict of Interest Act*, the meaning of the City's Code of Conduct for Members of Council and any procedures, rules and policies of the municipality governing the ethical behaviour of Members of Council under the City's Code of Conduct for Members of Council and the *Municipal Conflict of Interest Act*.

4.3 Local Boards

The duties of the Integrity Commissioner with respect to Local Boards are to:

- a) provide advice to Members of Local Boards on the application of the City's Code of Conduct for Local Boards and any procedures, rules and policies of the Local Boards governing the ethical behaviour of Members of Local Boards;
- b) provide advice to Members of Local Boards on the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*;
- c) receive and conduct inquiries, in accordance with the Council approved Complaint Protocol for Local Boards, into requests by Local Boards, a Members of the Local Boards or a member of the public about whether a Member of a Local Board has contravened the City's Code of Conduct for Local Boards;

- d) receive and conduct inquiries or initiate inquiries about whether a Member of a Local Board has contravened the *Municipal Conflict of Interest Act*, in accordance with sections 5, 5.1 and 5.2 of the Act;
- e) report to the Local Board, in writing, where an inquiry has been conducted under part c) and the Integrity Commissioner is of the opinion that a Member of the Local Board has contravened the Code of Conduct for Members of Local Boards and include any recommendations with respect to the inquiry for the Local Board to consider;
- f) report to Local Boards, annually, in writing, summarizing any activities undertaken and advice given; and
- g) provide such training and written reference materials, upon the request of Local Boards, for distribution to and use by Members of Local Boards and the public regarding the role of the Integrity Commissioner, the obligations and responsibilities of Members of Local Boards under the City's Code of Conduct for Members of Local Boards and under the *Municipal Conflict of Interest Act*, the meaning of the City's Code of Conduct for Members of Local Boards and any procedures, rules and policies of the Local Boards governing the ethical behaviour of Members of Local Boards under the City's Code of Conduct for Members of Local Boards and the *Municipal Conflict of Interest Act*.

APPENDIX “D”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Members of Council Public Registry
Declaration of Interest”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Members of Council Public Registry Declaration of Interest” in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act* requiring Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of written statements to be available for public inspection;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Members of Council Public Registry Declaration of Interest”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Members of Council Public Registry Declaration of Interest

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to implement the requirement for Members of Council to submit written statements regarding disclosure of interests and the creation of a registry of the written statements to be available for public inspection in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council.

4. The Policy

- 4.1 Any Member of Council who discloses an interest in accordance with section 5 of the *Municipal Conflict of Interest Act* shall, as soon as possible afterwards, file a written statement of the interest and its general nature, with the City Clerk.
- 4.2 The City Clerk shall establish and maintain a registry in which shall be kept:
 - a) a copy of each statement filed by a Member of Council under section 5.1 of the *Municipal Conflict of Interest Act*;
 - b) a copy of each declaration of interest recorded by the City Clerk, or designate, under section 6 of the *Municipal Conflict of Interest Act* in the minutes of a meeting that is open to the public.
- 4.3 The registry shall be available for public inspection 8:30 AM to 4:30 PM, Monday to Friday, with the exception of statutory holidays or other periods when City Hall is not open to the public.
- 4.4 The registry shall include a copy of each written statement that a Member of Council files with the City Clerk and a copy of each declaration of interest that the Clerk, or designate records in the minutes.
- 4.5 The registry will be made available for public inspection in both hard copy format and an electronic format uploaded to the City of London’s website.

APPENDIX “E”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Public Registry Declaration of Interest for
Local Boards”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Public Registry Declaration of Interest for Local Boards” in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act* requiring Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a register of written statements to be available for public inspection;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Registry Declaration of Interest for Local Boards”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Public Registry Declaration of Interest for Local Boards

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to implement the requirement for Members of Local Boards to submit written statements regarding disclosure of interests and the creation of a registry of the written statements to be available for public inspection in accordance with sections 5.1 and 6.1 of the *Municipal Conflict of Interest Act*.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Local Boards.

4. The Policy

- 4.1 Any Member of a Local Board who discloses an interest in accordance with section 5 of the *Municipal Conflict of Interest Act* shall, as soon as possible afterwards, file a written statement of the interest and its general nature, with the Secretary of the Local Board.
- 4.2 The Secretary of the Local Board shall establish and maintain a registry in which shall be kept:
 - a) a copy of each statement filed by a Member of a Local Board under section 5.1 of the *Municipal Conflict of Interest Act*;
 - b) a copy of each declaration of interest recorded by the Secretary of the Local Board under section 6 of the *Municipal Conflict of Interest Act* in the minutes of a meeting that is open to the public.
- 4.3 The registry shall be available for public inspection 8:30 AM to 4:30 PM, Monday to Friday, with the exception of statutory holidays or other periods when the Local Board's Office is not open to the public.
- 4.4 The registry shall include a copy of each written statement that a Member of the Local Board files with the Secretary of the Local Board and a copy of each declaration of interest that the Secretary of the Local Board records in the minutes.
- 4.5 The registry will be made available for public inspection in both hard copy format and an electronic format uploaded to the Local Board's website, where applicable.

APPENDIX “F”

Bill No. xx
2019

By-law No. CPOL.-_____

A by-law to enact a Council Policy entitled
“Members of Council – Absence – Pregnancy
or Parental Leave”.

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, C.25, as amended, provides a municipality with the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS the Council of The Corporation of the City of London wishes to enact a Council Policy entitled “Members of Council – Absence – Pregnancy or Parental Leave” in accordance with Subsections 259(1.1) and 270(1) of the *Municipal Act, 2001* to establish a process to recognize a Member of Council’s ability to take pregnancy or parental leave without a Council motion;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The policy entitled “Members of Council - Absence – Pregnancy or Parental Leave”, attached hereto as Schedule “A” is hereby adopted.
2. This by-law shall come into force and effect on the date it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Schedule “A”

Policy Name: Members of Council – Absence – Pregnancy or Parental Leave

Legislative History: None

Last Review Date: March 19, 2019

Service Area Lead: City Clerk

1. Policy Statement

This Policy establishes a process to recognize a Member of Council’s ability to take pregnancy and parental leave without a Council motion in accordance with Subsections 259 (1.1) and 270 (1) of the *Municipal Act, 2001* and to provide for delegated authority that would allow legislative and administrative matters to be addressed in a manner that is consistent with the Council Member’s wishes while they are on leave.

2. Definitions

None.

3. Applicability

This Policy applies to all Members of Council.

4. The Policy

Any Member of Council shall provide the City Clerk written notice of an absence of 20 consecutive weeks or less as a result of the Member’s pregnancy, the birth of the Member’s child or the adoption of a child by the Member in accordance with Subsections 259 (1.1) and 270 (1) of the *Municipal Act, 2001*.

The written notice shall contain the following information:

- a) an indication of the Member(s) of Council whom they wish to delegate the authority to undertake their Ward responsibility during their absence; and
- b) an indication of the Member(s) of Council whom they recommend Council appoint as a Member of any Committee(s) on which the Councillor sits, on an interim basis for the duration of their absence; and
- c) a recommendation to Council that the City Clerk be delegated the authority to approve the payment of costs from their expense account arising from routine expenses, in consultation with the Member(s) of Council to whom delegation has been given in accordance with a) above, and in accordance with the Council Members’ Expense Account Policy, if there is sufficient funds in the expense account to do so.

When such written notice is provided, the City Clerk shall forward the written notice forward for Council consideration immediately following the City Clerk’s receipt of the written notice.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	INTEGRITY COMMISSIONER

RECOMMENDATION

That on the recommendation of the City Clerk, with the concurrence of the Managing Director, Corporate Services and City Solicitor, the following actions be taken with respect to the appointment of an Integrity Commissioner for The Corporation of the City of London and local boards:

- a) the staff report, dated March 19, 2019, entitled “Integrity Commissioner” BE RECEIVED;
- b) the City Clerk and the Managing Director, Corporate Services and City Solicitor BE DIRECTED to bring forward a draft Agreement between The Corporation of the City of London and Gregory F. Stewart for the provision of services as The Corporation of the City of London’s and local boards’ Integrity Commissioner for the term ending May 31, 2021, based on the same conditions set out in the current Agreement, for consideration at the April 16, 2019 meeting of the Corporate Services Committee;
- c) the City Clerk BE DIRECTED to bring forward to the April 16, 2019 meeting of the Corporate Services Committee, a proposed by-law to appoint Gregory F. Stewart as the Integrity Commissioner for The Corporation of the City of London and local boards.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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November 24, 2015, Report from City Clerk to the Chair and Members of the Corporate Services Committee regarding “RFP15-35 – Appointment of an Integrity Commissioner”

December 15, 2015 verbal report from the Managing Director, Corporate Services and Chief Human Resources Officer regarding the progress of the targeted recruitment for an Integrity Commission for the Corporation

BACKGROUND

The Municipal Council appointed an Integrity Commissioner on May 16, 2017 after undertaking both a Request for Proposal process and a targeted recruitment process. At the conclusion of the processes, Mr. Gregory Stewart was appointed as the Integrity Commissioner. The Corporation of the City of London and Mr. Stewart entered into an “Agreement for Municipal Integrity Commissioner” which expires on May 31, 2019. A copy of the current Agreement is attached as Appendix “A” to this report for your information.

In accordance with section 223.3(1) of the *Municipal Act, 2001*, the Integrity Commissioner shall carry out the following functions:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.

2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

The following summarizes the impact of the above-noted legislative changes as they relate to the role of the Integrity Commissioner:

- The functions to be performed by an Integrity Commissioner have been expanded considerably with the most significant being the application of, advice related to and the power to conduct inquiries under section 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* (MCIA) and the power to make an application to a judge for a determination that a member has contravened those sections of the MCIA.
- Municipalities must appoint an Integrity Commissioner for its members of council and local boards.
- New rules will apply related to processes to be followed for inquiries conducted by an Integrity Commissioner.

Previously, the functions of an Integrity Commissioner were limited by the *Municipal Act, 2001* to the:

- a) application of the code of conduct for members of council and of local boards; and
- b) application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and local boards.

The functions of the Commissioner have been expanded to include new matters, noting that these functions are mandatory:

- a) the application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards;
- b) requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
- c) requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members;

- d) requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*; and
- e) the provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

One of the most significant changes is the new power granted to Integrity Commissioners to conduct inquiries concerning alleged contraventions of section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act* by a member of council or a local board:

- a) an Integrity Commissioner may conduct an inquiry into any such matter if made on the application of an elector or a person demonstrably acting in the public interest;
- b) time restrictions apply with respect to when an application may be made and when the Integrity Commissioner must complete the inquiry;
- c) upon completion of the inquiry an Integrity Commissioner may exercise their discretion and apply to a judge for a determination as to whether the member has contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*; and
- d) the costs of an Integrity Commissioner's application to a judge are to be paid by the municipality or the local board.

A number of provisions related to the processes used by Integrity Commissioners have been changed when conducting inquiries:

- a) requests for advice and responses given by an Integrity Commissioner must be in writing; and
- b) during the period from nomination day to voting day during a regular election:
 - i) no inquiries may be conducted, including inquiries under the MCIA;
 - ii) an Integrity Commissioner may not report on any contraventions of the Code; and
 - iii) inquiries not completed before nomination day must be terminated.

Municipalities are required to appoint an Integrity Commissioner to perform the responsibilities noted above. It should also be noted that the *Municipal Act, 2001* now requires all municipalities appoint an Integrity Commissioner or make arrangements for that role to be carried out by an Integrity Commissioner of another municipality. The following rules will apply:

- a) where a municipality has not appointed an Integrity Commissioner, it must make arrangements for those responsibilities to be performed by a Commissioner of another municipality; and
- b) if a municipality has appointed an Integrity Commissioner but has not assigned to them all of the responsibilities set out in section 223.3(1) of the *Municipal Act, 2001*, the municipality must make arrangements for those responsibilities to be performed by an Integrity Commissioner of another municipality.

Given the expanded powers and role of the Integrity Commissioner, the Terms of Reference will be required to be amended and the contract for the Integrity Commissioner will need to also reflect these expanded powers and additional responsibilities.

A separate report submitted to the March 19, 2019 meeting of the Corporate Services Committee brings forward for Municipal Council's consideration a revised Code of Conduct for Members of Council and a revised complaint protocol to reflect recent changes to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*, as well as an amended Terms of Reference for the role of the Integrity Commissioner.

Discussion

The current contract with the Integrity Commissioner establishes an hourly rate of \$250.00 per hour, plus applicable taxes, for time devoted to services as an Integrity Commissioner. In 2017, the costs billed by the Integrity Commissioner's for undertaking work in accordance with the contract was \$8,028.33. The 2018 the costs billed was \$6,055.78.

Mr. Stewart has indicated his willingness to be appointed as the Integrity Commissioner based on the same terms and conditions as set in the current contract, acknowledging that due to legislative changes the role of the Integrity Commissioner has been expanded and this will be reflected in the Agreement.

The Civic Administration recommends that Mr. Stewart be appointed as The Corporation of the City of London's Integrity Commissioner for an additional two years with the term of the contract expiring on May 31, 2021.

PREPARED AND RECOMMENDED BY:	REVIEWED AND CONCURRED BY:
CATHY SAUNDERS CITY CLERK	BARRY CARD, MANAGING DIRECTOR, CORPORATE SERVICES AND CITY SOLICITOR

Appendix “A”

CURRENT AGREEMENT FOR MUNICIPAL INTEGRITY COMMISSIONER

THIS AGREEMENT made this 17th day of May, 2016.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON

(hereinafter referred to as the “City”)

OF THE FIRST PART

AND:

GREGORY F. STEWART

(hereinafter referred to as “Stewart” and or the “Integrity Commissioner”)

OF THE SECOND PART

WHEREAS section 223.3 of the *Municipal Act*, 2001 authorizes the City to appoint an Integrity Commissioner who reports to Municipal Council and who is responsible for performing in an independent manner the functions assigned by Municipal Council in accordance with the legislation and the Municipal Council approved Terms of Reference;

WHEREAS the City wishes to retain Stewart as its Integrity Commissioner under the authority of the *Municipal Act*, 2001 to perform the duties and responsibilities of that office pursuant to the terms of the legislation and this Agreement

NOW THEREFORE, in consideration of the covenants hereinafter set forth, and other good and valuable consideration, the sufficiency and receipt of which consideration is hereby acknowledged, the parties hereto agree as follows:

1. Term - The term of this Agreement is for the period commencing May 17, 2016 (the “commencement date”) and ending on May 31, 2019 unless subject to prior early termination by either of the parties hereto and/or as otherwise renewed or extended by Agreement of the parties.

The City may at any time, suspend or terminate this Agreement by notice in writing and the duties thereunder or any portion thereof at any time. Upon receipt of such written notice, the Integrity Commissioner shall perform no further duties other than those reasonably necessary to close out the Integrity Commissioner’s duties. Notwithstanding the foregoing, the City shall not terminate or suspend this Agreement while the Integrity Commissioner is engaged in an investigation. In such case, the termination or suspension will not take effect until the Integrity Commissioner has completed the investigation and provided his report to Council.

Upon termination of this Agreement, the Integrity Commissioner shall forthwith deliver all material and documentation related to any investigations underway to the City’s next Integrity Commissioner, and all such material and documentation shall become the property of the new Integrity Commissioner of the City. In the event of the City not having contracted the services of a new Integrity Commissioner, upon termination of this Agreement the Integrity Commissioner shall make arrangements with the City Solicitor or City Manager to transfer the

material and documentation related to ongoing investigations in such a manner that satisfies the Integrity Commissioner's concerns respecting the confidentiality of the records, while allowing their use for the purposes that they were created.

The Integrity Commissioner shall retain all other records and documentation relating to his or her duties for a period of ten years following termination of this Agreement and then shall dispose of such records in a secure fashion by utilizing the City's Corporate Records Management Program.

Subject to the *Municipal Freedom of Information and Protection of Privacy Act* and subject to any other legislative requirement and the provisions of this Agreement, both during and after the term of this Agreement, the Integrity Commissioner shall not publish or issue any information respecting his duties under this Agreement without the prior written consent of the City's Council.

2. Services - The City of London hereby retains and appoints Stewart as Integrity Commissioner in accordance with the *Municipal Act, 2001* and Stewart accepts such appointment and agrees to perform the functions of Integrity Commissioner in accordance with this Agreement and as set out in the Code of Conduct for Members of Council and the Complaint Protocol of the Corporation of the City of London and as requested by the Council or Members of Council at all times in accordance with this Agreement and the *Municipal Act, 2001*.
3. Functions - As Integrity Commissioner, Stewart shall perform the functions and have the powers provided for in the Act, including but not limited to the following:

- (1) *Advisory*: Upon proper request, provide written and/or verbal advice to individual members of Council respecting the application of the Code of Conduct for Members of Council and the Complaint Protocol for the Corporation of the City of London, hereinafter collectively referred to as the "Code of Conduct" and/or any other procedures, rules, and policies relating to and reflecting upon their ethical behavior, including but not limited to general interpretation of the *Municipal Conflict of Interest Act (Ontario)*; and furthermore and when appropriate, provide the full Council with specific and general opinions and advice respecting compliance by elected officials in respect of the provisions of governing statutes, the Code of Conduct and any other applicable procedures, rules, and policies.

The Integrity Commissioner may be requested to provide such advice confidentially to the Member of Council making the request in respect of specific facts, and in a way in which the Member of Council may rely upon the advice provided. In such circumstances and where the Integrity Commissioner is requested to do so, he may provide advice in a general way to all Members of Council respecting the interpretation of the Code of Conduct.

- (2) *Compliance Investigation/Determinations*: Upon receipt of a complaint, the Integrity Commissioner shall assess the validity of the complaint to determine if it is appropriate and within the mandate of the Integrity Commissioner to investigate any alleged contraventions of the Code of Conduct identified in the complaint. Where the Integrity Commissioner has determined that the allegations made would, if substantiated, constitute a breach of the Code of Conduct, the Integrity Commissioner will investigate the alleged breach.

- (3) *Inquiry under s 223.4 of the Municipal Act, 2001*: Upon proper request from a member of Council or local board, municipal administration or one or more members of the public and having determined it is appropriate in the circumstances to initiate an inquiry under Subsection 223.4 of the *Municipal Act, 2001*, the Integrity Commissioner will conduct an inquiry and make a determination as to any alleged contravention of the Code of Conduct or applicable procedures, rules and policies by a member of Council and, thereafter, will report to Council the details and results of such inquiry.
- (4) *Reporting*: The Integrity Commissioner shall file an annual report to Municipal Council respecting the advice, education and investigations carried out in the previous year, and developments or recommendations of significance related to the role of the City's Integrity Commissioner.
- (5) *Educational*: The Integrity Commissioner shall provide outreach programs to members of Council and local boards and relevant staff on legislation, protocols, and office procedures emphasizing the importance of compliance with a Code of Conduct for public confidence in Municipal Government; and, furthermore, dissemination of information available to the public on the website operated by the City.
- (6) *Municipal Conflict of Interest Act*: Members of Council are governed by the *Municipal Conflict of Interest Act* and the provisions of that Act take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under that Act when a complaint involving the very same matter has been made under that Act. Where a proceeding has been commenced under the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall suspend any investigation being conducted by him or her with respect to the same matter until the proceeding under the *Municipal Conflict of Interest Act* has been completed.
- (7) *Clarification or Withdrawal*: If the Integrity Commissioner is unclear about the substance of a request for advice, or if the Integrity Commissioner is unclear as to whether a request received from a Member of Council is a request for advice or a request for an investigation, then before commencing work on the matter, the Integrity Commissioner will first seek clarification from the Member of Council who referred the matter. Likewise, if as a result of any action taken by the Integrity Commissioner the Member of Council who referred the matter believes the action is not what was intended, then the Member of Council may provide clarification to the Integrity Commissioner or may withdraw his or her request to provide advice or to conduct an investigation, whichever the case may be.
- (8) *Report to Council*: The Integrity Commissioner is responsible for performing the duties set out in this section independently, and shall report directly to Council in respect of all such matters.
- (9) *Documents*: The Integrity Commissioner shall provide electronic copies of any reports to the City Clerk who shall be responsible for ensuring distribution to the appropriate individuals, except for matters received as fact-specific requests from individual Members of Council, in which case the Integrity Commissioner shall correspond directly with that individual Member of Council.

4. Fees

Hourly Rate - Stewart will be paid a fee of TWO HUNDRED FIFTY DOLLARS PER HOUR (\$250.00/hour), plus applicable taxes, for time devoted to services as Integrity Commissioner for the City of London.

- a) Expenses – Stewart will be entitled to reimbursement of expenses incurred in relation to performance of duties contemplated by this Agreement, including but not limited to food and hotel costs, car rental, railway transportation, and/or mileage charges, all at the respective municipal rates then in effect.
- b) Legal Advice/Fees - The parties agree that, when necessary, Stewart may arrange for and receive legal assistance and advice to properly perform the duties contemplated by this Agreement. The parties agree that, as a direct cost and not as a reimbursable expense, the City of London shall pay the cost of such legal assistance and advice.

5. Reviewing Records - If requested by the City, the Integrity Commissioner shall make available to the City such time sheets, accounts, records, receipts, vouchers and other documents as the City Solicitor or City Manager considers necessary for the purpose of substantiating the Integrity Commissioner's invoices.

The City may, at any time and from time to time during the term of this Agreement and ten (10) years following its termination or expiry, audit and inspect the Integrity Commissioner's accounts, records, receipts, vouchers, records of accessible customer service training (if applicable), and other similar documents relating to performance of the duties and this Agreement and shall have the right to make copies thereof and take extracts therefrom.

The Integrity Commissioner shall make available to the City the materials referred to in this section in order that the City may carry out audits and inspections as provided in this section and shall furnish the City and its authorized representative with all such information as the City or such representatives may from time to time require with reference to such materials. The Integrity Commissioner shall furnish such materials to the City within such timeframe as reasonably required by the City. Without limiting the generality of the foregoing, the Integrity Commissioner shall furnish any required records of accessible customer service training to the City within ten (10) business days of the City's request, unless otherwise agreed upon by the City.

6. Confidentiality - During the term of this Agreement, pursuant to Subsection 223.5 of the *Municipal Act, 2001*, the Integrity Commissioner is entitled to have access to all books, financial records, electronic data, processing records, reports, files and any other papers, things or property belonging to or used by the municipality that the Integrity Commissioner believes to be necessary for an inquiry.

The Integrity Commissioner and every person acting under the instructions of the Integrity Commissioner shall reasonably preserve secrecy with respect to all matters that come to his knowledge in the course of carrying out any of the duties of the Integrity Commissioner under this Agreement, except as required by law in a criminal proceeding or in accordance with Subsection 223.5(1) of the *Municipal Act, 2001*.

Where the Integrity Commissioner reports to the City that in his opinion a Member of Council has contravened the Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary, subject to applicable law.

If the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code of Canada* or of any other Act, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge has been finally disposed of, and shall report the suspension to Council.

Except as may be required by law, the Integrity Commissioner shall not disclose confidential information that was the subject of a closed meeting under Section 239 of the *Municipal Act, 2001*, or which could identify a person concerned.

In the event the Integrity Commissioner believes access is required to files and documents for which solicitor-client privilege is claimed, the Integrity Commissioner shall discuss such request with the City Solicitor and, if in the opinion of the City Solicitor, such request needs to be discussed with City Council, then the direction of City Council will be sought by the City Solicitor, with the exclusion of the Member(s) of Council, if any, under investigation.

Upon receipt of a formal complaint pursuant to the Code of Conduct, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation or alternatively to exercise the powers of a Commission under Parts I and II of the *Public Inquiries Act*, as contemplated by Subsection 223.4(2) of the Act.

Upon receipt of a formal complaint pursuant to the Code of Conduct, the Integrity Commissioner will first determine whether the complaint is invalid by virtue of the reason that the Integrity Commissioner determines the complaint to be,

- a) outside of the jurisdiction of the Integrity Commissioner;
- b) frivolous or vexatious;
- c) made in bad faith or without substance; or
- d) insufficient basis to conduct an investigation, including not relevant to the objectives of the *Municipal Act, 2001*, the Council Code of Conduct or in the public interest.

Where the Integrity Commissioner so determines, he shall report the nature of the formal complaint and the reason for not investigating to City Council.

If the Integrity Commissioner is satisfied that a formal complaint regarding a Member of Council does not contain sufficient information to set out in a *prima facie* contravention of the Code of Conduct, the Integrity Commissioner shall stay any inquiry into the complaint. The Integrity Commissioner shall notify the complainant that the matter is stayed and provide an opportunity for the complainant to provide additional information to allow the Integrity Commissioner to determine whether there has been a possible contravention of the Code of Conduct. Where satisfied that the information sets out a *prima facie* contravention of the Code of Conduct, the Integrity Commissioner shall lift the stay and conduct the inquiry and where not satisfied, the Integrity Commissioner shall file a report setting out that decision.

If the Integrity Commissioner is satisfied, after considering the information contained in the complaint and any other relevant information, that a complaint regarding a Member of Council is frivolous, vexatious or not made in good faith, or where the complaint is not within the mandate of the Integrity Commissioner, he shall not conduct an inquiry. Where this becomes apparent in the course of an inquiry, the Integrity Commissioner shall terminate the inquiry and prepare and file a report to Council.

7. Insurance - During the term of this Agreement, the Integrity Commissioner shall procure and maintain errors and omissions insurance of not less than \$2 million.

The insurance as required under this section shall not be terminated, cancelled or materially altered unless written notice of such termination, cancellation or material is given by the insurers to the City at least sixty (60) clear days before the effective date thereof. Any revisions must be submitted to the City Manager for approval.

The Integrity Commissioner shall provide the City with a certificate of insurance indicating compliance with this section upon execution of this Agreement.

8. General Indemnity

The City will save harmless and fully indemnify the Integrity Commissioner, both during and following the term of this Agreement, from and against all costs, actions, suits, claims, demands whatsoever incurred in the course of actions taken within the terms of the duties to be performed by the Integrity Commissioner described herein for any act done in good faith in the performance or intended performance of a duty or authority under the *Municipal Act, 2001* or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority. The Corporation shall indemnify the Integrity Commissioner by i) assuming the cost of defending the Integrity Commissioner in an action or proceeding; ii) paying any damages or costs awarded against the Integrity Commissioner as a result of an action or proceeding, iii) paying, either by direct payment or by reimbursement, any expenses reasonably incurred by the Integrity Commissioner as a result of an action or proceeding or iv) paying any sum required in connection with the settlement of an action or proceeding, to the extent that such costs, damages, expenses or sums are not assumed, paid or reimbursed under any provision of any insurance maintained by the Corporation or the Integrity Commissioner for the benefit and protection of him against any liability incurred by him. The Corporation shall have the right to select and retain the lawyer to represent the Integrity Commissioner in circumstances where he seeks indemnity pursuant to this Agreement and shall have the right to approve any settlement of any action or proceeding. Where the Integrity Commissioner is served with any process issued out of or authorized by any court, administrative tribunal or other administrative, investigative or quasi-judicial body in connection with any action or proceeding, he shall deliver a copy of the process forthwith to the City Manager if he is seeking indemnity under this Agreement. The Integrity Commissioner shall cooperate fully with the Corporation and any lawyer retained by the Corporation to defend such action or proceeding and shall make available to such lawyer all information and documents relevant to the matter subject to applicable requirements of privilege and confidentiality.

9. Conflict of Interest - The Integrity Commissioner acknowledges and advises that he does not have any conflicts of interest that would interfere with carrying out the duties under this Agreement and that he shall be impartial and neutral and shall perform all duties skillfully, competently, independently and in accordance with all applicable law.

If the Integrity Commissioner becomes aware of a situation where a conflict of interest could arise, the Integrity Commissioner shall:

- a) advise the City Manager immediately in writing of the nature of the conflict;
- b) refrain from conducting any further investigation or providing advice on the matter at issue until further direction is given by the City Manager

Upon receipt of a notice in writing from the Integrity Commissioner in accordance with this section the City may:

- a) terminate this Agreement; or
 - b) request the Integrity Commissioner to remove himself or herself from an investigation/inquiry or to stop any further work on a matter, in which case, the Integrity Commissioner shall immediately make arrangements to transfer all related documentation to the City Solicitor or City Manager as soon as possible. In that case, the City Manager may retain another person to conduct the investigation/inquiry or to carry on the work in question in place of the Integrity Commissioner, as the City Manager deems appropriate.
10. No Amendment - This Agreement may only be changed or amended in writing duly executed by the duly authorized representatives of both parties.
11. Independent Contractor - Notwithstanding the appointment as a statutory officer, the parties agree and acknowledge that Stewart is a contractor independent of the City of London. Nothing within this Agreement shall be interpreted to render or create a relationship of employer/employee, partnership, franchise, agency, joint venture or other like arrangement as between Stewart and the City of London.
12. Statutory Officer - For purposes of the Agreement and solely for the purpose of arranging for errors and omission insurance, the Integrity Commissioner shall be deemed to hold the status of "Statutory Officer" under the *Municipal Act, 2001*.
13. Early Termination - The within Agreement may be terminated by either party upon fifteen (15) days' notice by delivery of a written notice of such early termination delivered during the term of this Agreement.
14. Notice - Any notice required pursuant to this Agreement shall be delivered to the respective parties hereto at the following addresses:

For the City of London:
300 Dufferin Avenue
PO Box 5035
London, Ontario
N6A 4L9

Attention: City Manager

For Gregory F. Stewart:
Donnelly Murphy Lawyers Professional Corporation
18 The Square
Goderich, Ontario
N7A 3Y7

Any written notice between the parties hereto pursuant to this Agreement which specifically excludes any invoice rendered herein, shall be delivered or sent by pre-paid registered mail addressed to the parties at the respective addresses listed above. Notice shall be deemed to have been received on the date on which notice was delivered to the addresses designated or, in the case of mailing, on the fifth day after the date of mailing.

15. Severability - All paragraphs, terms, and conditions of this Agreement are severable and the invalidity, illegality or unenforceability of any such paragraph, term, or condition shall be deemed not to affect the validity, legality, or enforceability of the remaining paragraphs, terms and conditions.

- 16. Complete Agreement - This Agreement constitutes the entire Agreement between the parties and supersedes all prior Agreements, negotiations and discussions, whether oral or written, with respect to the subject matter of this Agreement.
- 17. Enurement - This Agreement shall enure to the benefit of and is binding upon the parties hereto and their respective successors, heirs, executors and permitted assigns.
- 18. Governing Law -This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated in all respects as an Ontario contract.
- 19. Amendments -The City may in writing at any time after the execution of this Agreement or the commencement of the duties delete, extend, vary or otherwise alter the Code of Conduct and the duties forming the subject of this Agreement. The City shall consult with the Integrity Commissioner prior to changing the duties. The Integrity Commissioner shall have the option of terminating this Agreement upon giving thirty days notice if the scope of the duties is materially altered without the Integrity Commissioner’s consent.

IN WITNESS WHEREOF the parties are to have caused the Agreement to be signed and sealed and/or executed by their respective officers which are duly authorized as of the date first written above.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

THE CORPORATION OF THE CITY OF
LONDON

Per:

Mayor

Per:

Clerk

We have authority to bind the Corporation

Gregory F. Stewart

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	CATHY SAUNDERS, CITY CLERK AND BARRY CARD, MANAGING DIRECTOR, CORPORATE AND LEGAL SERVICES, CITY SOLICITOR
SUBJECT:	LOBBYIST REGISTRAR AND CLOSED MEETING INVESTIGATOR

RECOMMENDATION

That, on the recommendation of the City Clerk, with the concurrence of the Managing Director, Corporate and Legal Services, City Solicitor, the report dated, March 19, 2019, entitled "Lobbyist Registrar and Closed Meeting Investigator", BE RECEIVED.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Item #24 – Board of Control – December 9, 2009
Item #21 – Finance and Administration Committee – November 10, 2010
Item #12 – Finance and Administration Committee – November 14, 2011
Item #9 – Finance and Administration Committee – January 19, 2011
Item #9 – Finance and Administration Services Committee – November 26, 2012
Item # 5 – Corporate Services Committee – April 23, 2013

BACKGROUND

At the April 30, 2013 meeting of Municipal Council, the following resolution was passed with respect to the establishment of a lobbyist registry:

- "f) the City Clerk, in consultation with the City Solicitor BE DIRECTED to report back in one year, after the implementation of the Integrity Commissioner to evaluate the need for the establishment of a Lobbyist Registry;"

At the October 13, 2015 meeting of Municipal Council, the following resolution was passed with respect to the Deferred Matters List:

- "a) the Deferred Matters List BE APPROVED with the following amendments:
 - i) addition of a requirement for a report back one-year after the Integrity Commissioner is in place regarding the advisability of appointing an Ombudsman and Lobbyist Registry for the City of London;"

The Municipal Council passed a By-law to appoint an Integrity Commissioner for the City of London on May 17, 2016.

What are the legislative provisions that pertain to Accountability and Transparency?

In 2007, the *Municipal Act, 2001* was amended to include several provisions to assist municipalities in being more transparent and accountable to the public. In 2018, further amendments were made to the *Municipal Act, 2001* relating to these matters. Many of these amendments arose from the report by Madam Justice Bellamy issued in 2005 on the Toronto Computer Leasing Inquiry and the Toronto External Contract Inquiry.

Section 270 of the *Municipal Act, 2001* requires every municipality to adopt and maintain policies with respect to the following matters:

1. Its sale and other disposition of land.
2. Its hiring of employees.
3. The relationship between members of council and the officers and employees of the municipality.
4. Its procurement of goods and services.
5. The circumstances in which the municipality shall provide notice to the public and, if notice is to be provided, the form, manner and times notice shall be given.
6. The manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public.
7. The delegation of its powers and duties.
8. The manner in which the municipality will protect and enhance the tree canopy and natural vegetation in the municipality.
9. Pregnancy leaves and parental leaves of members of council.

The City of London's section 270 policies are contained in a number of City of London documents including By-law A.-6151-17, as amended, found at the following link:

<http://www.london.ca/city-hall/by-laws/Documents/CouncilPolicy.pdf>

A separate report submitted to the March 19, 2019 meeting of the Corporate Services Committee addresses Item 3, above, by means of a proposed revised Code of Conduct for Members of Council to reflect recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* which came into effect March 1, 2019. This report also recommends corresponding amendments to the Terms of Reference for the Integrity Commissioner and Complaint Protocol for complaints received under the Code of Conduct for Members of Council.

Item 9, above, is also addressed in the above-noted separate report through a recommended Council Policy.

Part V.1 of the *Municipal Act, 2001* authorizes a municipality to appoint four types of integrity officers. The power to appoint any of these officers is discretionary, with the exception of the Integrity Commissioner:

1. Integrity Commissioner
2. Ombudsman
3. Auditor General
4. Lobbyist Registrar

Integrity Commissioner

As noted previously in this report, the Municipal Council appointed an Integrity Commissioner on May 16, 2017. In accordance with section 223.3(1) of the *Municipal Act, 2001*, the Integrity Commissioner shall carry out the following functions:

1. The application of the code of conduct for members of council and the code of conduct for members of local boards.

2. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of members of council and of local boards.
3. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* to members of council and of local boards.
4. Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member.
5. Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of members.
6. Requests from members of council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.
7. The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's codes of conduct for members of council and members of local boards and about the *Municipal Conflict of Interest Act*.

As also noted above, as a result of recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act*, through a separate staff report, amendments to the Code of Conduct for Members of Council, the related Complaint Protocol and the Terms of Reference for the Integrity Commissioner are recommended.

It should also be noted that the *Municipal Act, 2001* now requires that all municipalities appoint an Integrity Commissioner or make arrangements for that role to be carried out by an Integrity Commissioner of another municipality.

Lobbyist Registry and Registrar

Sections 223.9 and 223.11 of the *Municipal Act, 2001* authorize a municipality to establish and maintain a registry to keep returns filed by persons who lobby public office holders and to appoint a registrar who is responsible for performing, in an independent manner, the functions assigned by the municipality with respect to its lobbyist registry.

Section 223.9(2) of the *Municipal Act, 2001*, where a registry is established, authorizes a municipality to do the following things:

1. Define "lobby".
2. Require persons who lobby public office holders to file returns and give information to the public.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public officer holders and specify the time within which the returns must be filed and information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.
6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.

8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities.

The registry is to be available for public inspection.

A Lobbyist Registrar, appointed by Municipal Council, performs in an independent manner and may conduct an inquiry in respect of a request made by council, a member of council or a member of the public about compliance with the system of registration noted above and may make a report to the municipality in respect of an inquiry.

A Lobbyist Registrar:

- oversees the establishment and maintenance of a lobbyist registry;
- provides advice, opinions and interpretation to the administration, application and enforcement of the provisions set out in a by-law to establish a registry;
- conducts inquiries in respect to a request made by Council, a member of Council or a member of the public about compliance with the municipal by-law, which may include requesting that a public office holder gather information concerning lobbying of them and provide that information to the Lobbyist Registrar; and
- advises Council on lobbying matters

What other municipalities have a Lobbyist Registry or Registrar?

The City of Toronto

The City of Toronto established the Office of the Lobbyist Registrar in 2007. The City of Toronto Lobbyist Registrar is supported by a staff that is independent of the Civic Administration of the municipality.

The City of Toronto By-law establishing the Lobbyist registry is found at the following link:

http://www.toronto.ca/legdocs/municode/1184_140.pdf

The Toronto By-law provides for a registry to be overseen by a registrar. It uses terms similar to the provincial and federal systems. Lobbyists are required to register (by filing a return) prior to undertaking any lobbying activity. Registration requirements vary depending upon the class or category of lobbyist. The by-law includes a Lobbyists Code of Conduct. Enforcement is through the provincial courts.

The City of Ottawa

The City of Ottawa enacted a Lobbyist Registry By-law on September 1, 2012 which can be found at the following link:

<https://ottawa.ca/en/city-hall/accountability-and-transparency/accountability-framework/lobbyist-registry/bulletins-and#lobbyist-registry-law>

The Ottawa By-law uses similar terminology and definitions as found in the provincial legislation and the City of Toronto By-law. There are some differences, including that the by-law does require that not for profit corporations, with paid staff, register. As well, the Ottawa By-law does not require registration prior to lobbying. Instead, lobbyists are required to register within 15 days of a specific lobbying communication. Enforcement of the by-law rests with the City's Integrity Commissioner who is cross appointed to act

as Lobbyist Registrar. The By-law authorizes the Integrity Commissioner to investigate complaints and to impose sanctions on persons who do not comply with the By-law, including the imposition of temporary bans on lobbying and the suspension or revocation of a lobbyist's registration. The By-law also includes a Lobbyist Code of Conduct.

The enforcement of the Ottawa By-law appears to be limited in its application. Ottawa is considering amending its codes of conduct for council members and employees to include a provision that prohibits communications with a banned or unregistered lobbyist where such person is undertaking a lobbying activity as defined in the by-law. Some consideration would have to be given to the practical aspects of enforcing such a mechanism noting that employees and council members would be under an obligation to conduct a search of the registry before communicating with the lobbyist to ensure compliance with the applicable code.

The City of Hamilton

The City of Hamilton established a Lobbyist Registry on August 1st, 2015. The Registrar is an independent office from the Civic Administration of the municipality and reports direct to Council. The City of Hamilton By-law can be found at the following link:

<http://www2.hamilton.ca/NR/rdonlyres/20D2A3FB-1FE5-4903-A2A2-D2B9C8E04D06/0/14244.pdf>

The City of Vaughan

The City of Vaughan established a Lobbyist Registry as of January 1, 2018. The City of Vaughan's Office of the Registrar operates in a similar fashion to that of the City of Toronto with a fully separate office to the Civic Administration of the municipality.

The City of Vaughan By-law can be found at the following link:

<http://www.vaughan.ca/cityhall/lobbyistregistry/General%20Documents/By-law%20165-2017%20-%20Lobbyist%20Registry%20By-law.pdf>

The City of Brampton

The City of Brampton established a Lobbyist Registry in 2016. The Integrity Commission acts as the Registrar. The City of Brampton By-law can be found at the following link:

https://www.brampton.ca/EN/City-Hall/Bylaws/2015_/149-2015.pdf

The Region of Peel

The Region of Peel established a Lobbyist Registry in 2016. The Region of Peel By-law can be found at the following link:

<https://www.peelregion.ca/council/bylaws/2010s/2016/bl-47-2016.pdf>

Of the municipalities listed above, all but two have appointed their Integrity Commissioner as their Lobbyist Registrar.

What are the best practices for a municipal Lobbyist Registry and Lobbyist Registrar?

Lobbyist Registries and Registrars were discussed extensively at the Toronto and Mississauga Inquires and both reports contain recommendations regarding them. Justice Bellamy recommended that the City of Toronto establish a lobbyist registry and appoint a registrar to oversee it. The Toronto system was reviewed extensively by experts who testified at the Mississauga Inquiry. These witnesses opined that the Toronto registry was too costly and complex.

Witnesses at the Mississauga Inquiry discussed different types of lobbyist registries including a voluntary registry system that only requires lobbyists to register what the nature of their business is and a disclosure system which would include more detailed information in terms of the lobby activities undertaken.

Also raised at the Inquiry were alternate models including a lobbyist code of conduct regulated through an accountability framework and overseen by an Integrity Commissioner similar to the provincial model. The Surrey B.C. model which uses guidelines in the city's code of conduct for council members and employees was raised at the Inquiry and in Justice Cunningham's Report as an example for regulating lobbying activity other than through a registry.

Justice Cunningham did not recommend that Mississauga establish a lobbyist registry. Instead, he recommended that the City amend its Code of Conduct for Council Members to incorporate guidelines for how council members should deal with lobbyists particularly in the context of development issues.

What options are available for Council when considering a Lobbyist Registry or Lobbyist Registrar?

At this time, it is not recommended that a Lobbyist Registry be established as much of the work undertaken by an Integrity Commissioner is to educate and provide advice to Members of Council. In addition, recent amendments to the *Municipal Act, 2001* and the *Municipal Conflict of Interest Act* have resulted in an enhanced Code of Conduct with more emphasis on the disclosure of pecuniary interests, disclosures of gifts and hospitality and a greater role for the Integrity Commissioner to investigate and decide on such matters.

If Council wishes to implement a system with respect to regulating lobbying activities, the following options could be considered:

1. Establish a lobbyist registry system that requires defined classes of lobbyists to register either before or after they undertake a lobbying activity with no enforcement provisions.
2. Establish a lobbyist registry system to be overseen by a Registrar that requires defined classes of lobbyists to register either before or after they undertake a lobbying activity with enforcement provisions which could include offences under the *Provincial Offences Act* (Toronto model), a ban system to be imposed by the Registrar (Ottawa model), or enforcement through the application of the Council Member and Employee Codes of Conduct (currently under review in Ottawa).
3. Amend the Code of Conduct for Council Members to include guidelines as to how elected officials may communicate with lobbyists.
4. Maintain the status quo and rely on the Employee Code of Conduct, the City's Procurement Policy, the Council Members Code of Conduct and the *Criminal Code*.
5. Cross appoint an individual to perform accountability and transparency duties for the City including holding the office of Closed Meeting Investigator, Integrity Commissioner and/or Lobbyist Registrar.

Ombudsman

Section 239.1 of the *Municipal Act, 2001* requires a municipality to appoint a closed meeting investigator to investigate complaints as to whether a municipality has complied with the requirements of section 239 (discretionary exceptions to the open meeting requirements) and its section 238 procedure by-law in respect of a meeting or part of a meeting that is closed to the public. Where a municipality does not appoint a

closed meeting investigator, the Act provides that the Ombudsman of Ontario shall act as the closed meeting investigator. Municipal Council at its meeting of December 3, 2007 confirmed the selection of the Ombudsman of Ontario as the City's closed meeting investigator.

The City of London has not appointed a closed meeting investigator and therefore the Ontario Ombudsman has acted as the City's closed meeting investigator. The City's experience with the Ontario Ombudsman's Office has been positive. We have found the staff to be professional and the process to be respectful and cooperative.

The Civic Administration recommends that we continue with the current process to have the Ontario Ombudsman act as the closed meeting investigator for the City of London and not appoint a closed meeting investigator..

PREPARED AND SUBMITTED BY:	PREPARED AND SUBMITTED BY:
CATHY SAUNDERS CITY CLERK	BARRY CARD, MANAGING DIRECTOR, CORPORATE SERVICES AND CITY SOLICITOR

From: dan@day2knightevents.com
To: [Saunders, Cathy](#)
Cc: [Bush, Anastasia](#)
Subject: Rent Free Day
Date: Friday, March 01, 2019 11:25:49 PM
Attachments: [Date Change Letter.docx](#)

Hi City Clerk Saunders,

Please find attached a letter for the 2019 Seniors Prom event I'm organizing.

I made a date mistake in my original request to the city for a rent free day for this event thus the reason for my date change request letter.

Thank you for helping make a huge impact in the lives of many seniors!

Dan

Dan Knight
Owner & Operator, Day 2 Knight Events
dan@day2knightevents.com
519-280-8633



Dear City Clerk Cathy Saunders;

I'm writing to inform you that I made a date error in my request for a rent free day at Budweiser Gardens for the 2019 Seniors Prom.

I had put October 3, 2019 in my request to the city which was graciously accepted. In chatting with Budweiser Gardens staff again after receiving that acceptance letter I realized I made a mistake in the date as they have an event already booked for October 3rd.

That being said Budweiser Gardens and I have agreed on October 10th if it is ok with you and those who need to approve this decision.

Thank you so much for helping to bring this event to life impacting hundreds of seniors in our community!

Dan

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	CATHY SAUNDERS CITY CLERK
SUBJECT:	ADVISORY COMMITTEE REVIEW – INTERIM REPORT

RECOMMENDATION

That, on the recommendation of the City Clerk, the following actions be taken with respect to the 2019 appointments to the City of London Advisory Committees (ACs):

- a) the Civic Administration, who currently serve as non-voting resources to ACs, BE REQUESTED to assist in the ACs work plan development, based on advice or initiatives that are related to work currently being undertaken by the Civic Administration; and
- b) notwithstanding the current Terms of Reference for each Advisory Committee, the current voting member recruitment for the abbreviated term of June 1, 2019 to February 28, 2021 (previously approved by Council), BE CONDUCTED seeking only 'members-at-large' for appointment;

it being noted that an exception will be required for the Accessibility Advisory Committee based on provincial legislation.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Finance and Administrative Services Committee – February 27, 2012
- Strategic Priorities and Policy Committee – December 16, 2013
- Strategic Priorities and Policy Committee – March 17, 2014
- Civic Works Committee – June 19, 2018
- Corporate Services Committee – November 13, 2018

BACKGROUND

The following direction was given, following the November 13, 2018 update report:

“That the following actions be taken with respect to the recruitment and appointment of Advisory Committee members for the up-coming term:

- a) the recruitment for voting members, BE UNDERTAKEN;
- b) the appointments for the above-noted recruitment BE LIMITED to a term from June 1, 2019 to February 28, 2021; it being noted that the current terms of Advisory Committee members will be extended to the date of June 1, 2019; and,
- c) the City Clerk BE DIRECTED to report back to the Corporate Services Committee with respect to input from current Advisory Committee members related to existing Terms of Reference and the recommendations from the Diverse Voices for Change project, prior to the end of February 2019.”

Recruitment, Application and General Comments

In late November 2018, the Civic Administration hosted two workshops to discuss with the community, the role of Advisory Committees (ACs) and more specifically, the application process and barriers to participating as a member of an AC. These sessions were scheduled in conjunction with scheduled AC meetings, in order to encourage the

public to attend a portion of the meeting to see the experience first-hand, as well as to encourage the participation of current members. Approximately 25 individuals participated, the majority of whom were current AC members.

Comments received related to the application and recruitment process were as follows (*indicating multiple notations):

- application needs a “save” function
- better notation about publication of (personal) information
- should have a word limit to encourage “quality over quantity”
- questions are repetitive, therefore answers are similar
- asking about past contributions/experience, can be a deterrent to first-time applicants
- use yes/no questions so application is less wordy
- use plain language *
- there should be minimum qualifications to apply; testing would be beneficial
- leading with a qualifications questions (work experience) is intimidating
- needs to be available in accessible formats
- applicants with experience should be ‘fast-tracked’
- develop applications specific to each committee
- some questions are overly specific
- include information and expectations on application form
- inform shelters, when recruiting
- pre-qualifications for members should be established
- need quicker replacement of members; faster recruitment (establish ‘triggers’ for recruitment, thresholds for membership numbers)
- use social media, community centres, notice boards with foot traffic
- the AC chair should be involved with appointments
- utilize Western; targeted recruitment
- need to be able to remove members that are not participating/contributing
- utilize the Youth Advisory Committee
- use direct mail to recruit
- need different techniques for different demographics
- the current agenda/minute page would deter some applications

These comments are quite similar to issues identified by the Diverse Voices for Change (DV4C) initiative. A separate report will be submitted at a future date responding specifically to the recommendations of the DV4C.

Additional information gathered during these sessions was more generally about the construct of the ACs, including potential barriers that may limit or restrict an individual’s ability to apply and/or participate in ACs. The comments received were as follows (*indicating multiple notations):

Participation/Committee Work –

- current meeting days/times are good
- daytime meetings restrict membership
- committee should establish own meeting times
- virtual meetings – off-site/remote participation in meetings
- staggered terms would be beneficial*
- 2 year terms would be less intimidating *; not all individuals can commit to 4 years (ie. students)
- a manual for members would be helpful*
- poor attendance results in quorum issues
- committees need ‘diverse points of view and experience’ from the membership
- increase members-at-large

General/Additional Comments –

- commitment requirements need to be known upfront (including working groups and subcommittee participation); better information up front (orientation)*
- minutes/reports should reflect the discussion at meetings
- establish a ‘buddy system’; mentor for new members
- increase Councillor involvement
- allow AC members to be involved with/participate in new Councillor orientation
- sub-committees require support – that’s where the work happens
- being able to use outside resources for subcommittees is helpful
- want to see respect for their work
- utilize workshops and webinars

The most common comments were related to the need for better “orientation” when new members start (especially mid-term), as well as clearer understanding of expectations from Council related to the Advisory Committees’ work. The potential to move to staggered terms of appointment could assist in easing this issue; this proposal will be reported in additional detail at a later date.

Terms of Reference

Previous reports from the City Clerk’s Office have addressed the overlap of mandates and Terms of Reference matters of existing Advisory Committees. Areas of jurisdiction that cross committee mandates include: the environment (climate change, conservation, etc.), transportation (including safety, cycling and pedestrians), transit, planning matters, ‘social services’ and public safety. In addition, the memberships overlap with representation on each other’s committees. This is a known matter, and while there is significant overlap, there remains separate and distinct over-arching mandates for each AC. In addition to the open house-style events, ACs and the Civic Administration were asked for feedback specific to the Terms of Reference for each AC. This consultation is not yet complete, but is well underway. Below is a summary of the feedback received at the time of this report preparation. Further information will be provided in subsequent reports.

In reviewing the Terms of Reference with members of the **Civic Administration**, the following comments were provided:

- structure of all Terms of Reference(s) should be the same – consistency between the documents for each AC
- add Human Resources Division and Accessibility Specialist to Staff Resources (ACCAC) and the Diversity Specialist as a specific resource for DIAAC.
- add Emergency and Security Management Division to the Non-voting resource group of the Community Safety and Crime Prevention Advisory Committee
- language clarity for membership requirements (per the AODA) for the ACCAC
- some ACs have unbalanced representation in the membership; this has happened slowly over time
- Animal Welfare Advisory Committee should include representation from the Humane Society, the City’s animal service provider and the Health Unit
- appointments need to be balanced in the community representation, with clarity of roles for advice (not direction or leadership); there needs to be safeguards to prevent advocacy
- add Parks & Recreation Services as a non-voting resource for the Cycling Advisory Committee
- some Terms of Reference/mandates are within the purview of more than one standing committee making reporting relationships confusing
- duplication of mandates between ACs can cause confusion; getting collaboration between committees is challenging
- better clarity is needed regarding the scope and relationship between governance (Council) and the ACs – clarification of the path from advisory through governance, and then how any applicable implementation (including resourcing) will happen
- needs to be better clarity of the roles of staff – from all areas of the civic administration

In consultation with the **AC members**, this is what we heard:

- there needs to be flexibility in the Terms of Reference
- non-voting/resource members should be evaluated on an on-going basis; needs for resources can change from one meeting to the next
- it is helpful to have specific staff in attendance when a review of one of their files/projects is being discussed
- timing of the AAC meetings seldom allows for meaningful commentary on applications, due to the deadlines for comment; when comments are made, there's not any follow up to know what happened
- more work provided directly to the ACs would help them maintain a focus
- the Terms of Reference are very complete (referring to the General Terms, as well as those specific to the London Advisory Committee on Heritage)
- in many cases the maximum terms identified are exceeded, particularly for members who are appointed to represent other groups/organizations/committees; in some instances this would escalate an existing difficulty in finding members
- term lengths for Chair and Vice-chair – has a nomination ever been refused by Council? Is this more of a guideline for ACs to consider?

There have been ten requests in the past two years from Advisory Committees to amend their Terms of Reference. In all but one case, these change requests have been specific to the membership outlined in the Terms of Reference. In many cases, revisions are being suggested to change specifics in membership requirements due to difficulty in filling the roles and/or because organizations no longer exist.

Additional comments that were not necessarily specific to the Terms of Reference are as follows:

Civic Administration

- AC members would benefit from training on their role at the start of the term; including parliamentary procedure (orientation) *
- staff resources need training/information on their role
- need to better understand how to apply for ACs and how appointments are completed
- there should be resources and support for all ACs (rooms, projectors, wi-fi, etc.)
- a personal reply should go to each applicant
- need for training of all AC members on City policies related to diversity, equity, inclusion, merit, etc.; roles of the City vs. the Provincial or Federal government; and the need for transparency related to policy and strategy development undertaken by staff
- AC members are not always aware of information that is already available or under consideration when making recommendations
- More clarity should be provided to the AC members as to their advisory role
- work plans could be very effective tools for the ACs, particularly if formulated in consultation with staff; at times ACs can move away from work plans, and their mandates due to a lack of awareness of work being undertaken by the Civic Administration
- purposeful consultation (when timing works) with ACs is very effective
- the working relationship between some members of the ACs and staff can sometimes be strained due to opposing viewpoints
- at times resource members (staff) confuse their role
- enhanced training of the Chairs of ACs would be beneficial to help keep committees within their assigned scope (Terms of Reference/mandate)
- AC work should be directly related to work that is already being undertaken by the Civic Administration
- the number of committees should be reduced
- standards need to be established for recommendations that are made by the ACs

- timing needs to be adjusted to allow staff adequate opportunity to be aware of recommendations/respond, prior to being brought forward in AC reports to standing committees/council

Advisory Committee members

- AAC rarely had items sent to the committee to review

DISCUSSION

As outlined above, there are varying opinions of what works, what does not work, and what could be improved. There were also some common themes that emerged that can be put into action in the immediate/near future. There are additional matters that will require further consideration and review.

The attached revised draft application is proposed to be utilized on the city website for the current committee recruitment. The application has been simplified to eliminate repetitive questions and attempts to use more common language and be somewhat less formal. Some of the recommendations have not yet been worked into the application form, due to some technical limitations. The City Clerk’s office will continue to work on modernizing this process in accordance with the input that has been received. A project request will be submitted in the next IT project intake process for further improvements to the application process.

It is suggested that a separate application, that may be more formal, be developed for the city’s boards and commissions where specific skill sets and experience may be more desirable or necessary for the board membership.

As well, there will be additional outreach undertaken to advise the public as to the active recruitment, including requesting the direct involvement of current AC members to share information within their established networks.

The feedback related to the existing Terms of Reference was primarily related to commentary about ‘assignments’ not being provided directly to the ACs to focus on.

Recommendation: the Civic Administration, who currently serve as non-voting resources to ACs, BE REQUESTED to assist in the ACs work plan development, based on advice or initiatives that are related to work currently being undertaken by the Civic Administration;

Recommendation: That, notwithstanding the current Terms of Reference for each Advisory Committee, the current voting member recruitment for the abbreviated term of June 1, 2019 to February 28, 2021, BE CONDUCTED to appoint all voting members as ‘members-at-large’; it being noted that an exception will be required for the Accessibility Advisory Committee based on provincial legislation.

Subject to the approval of the above-noted recommendations, the population of voting members, for the abbreviated term, is outlined in the following table. This proposed totals of temporary (2 year) members generally reflect the current voting membership total. None of the ACs have proposed a need to reduce their membership numbers.

Advisory Committee	Current Voting Members	Proposed Temporary Members
Accessibility Advisory Committee (ACCAC)	Min. 7 members (the majority of which shall be persons with disabilities 1 parent representing children with disabilities 5 members (who may have a disability)	Up to 13 members, the majority of whom shall be individuals with disabilities
Advisory Committee on the Environment (ACE)	9 members-at-large 1 rep of environmental/interest group 1 rep of industrial/commercial/institutional sector 1 rep from TREA 1 rep from EEPAC	Up to 13 members-at-large
Agricultural Advisory Committee (AAC)	4 members-at-large 1 alternate member-at-large 1 rep Middlesex Federation of Agriculture 1 rep Christian Farmers Federation 1 rep Middlesex Soil and Crop Improvement Association	Up to 8 members-at-large
Animal Welfare Advisory Committee (AWAC)	10 members-at-large 1 rep Animal Rescue Group 1 Wildlife Rehabilitator/Naturalist 1 Vet/Vet Tech 1 Local Pet Shop Owner 1 rep Friends of Captive Animals 1 rep London Dog Owners Association	Up to 16 members-at-large
Childcare Advisory Committee (CCAC)	7 (minimum) Licensed Child Care Providers 1 rep Fanshawe ECE Program 1 rep Ontario Early Years Child and Family Centres 4 Informed Community Members	Up to 13 members-at-large
Community Safety and Crime Prevention (CSCP)	5 members-at-large 1 youth rep (18-25) 1 rep Thames Valley D.S.B. 1 rep London District Catholic S.B. 1 rep Thames Valley Council of Home & School Associations 1 rep London District Catholic School Council 1 rep Neighbourhood Watch London 1 rep London and Area Council of Women 1 rep Safety Village 1 rep Child Safety Middlesex London 1 rep London Youth Advisory Council	Up to 15 members-at-large
Cycling Advisory Committee (CAC)	2 members-at-large 1 rep from the TAC 1 rep from the ACE 1 rep from London Middlesex Road Safety Committee 1 rep TREA 1 rep from Cycling Club (Ontario Cycling Association member) 1 rep from Chamber of Commerce, with transportation demand management interest 1 rep LDI 1 rep London Cycle Link 1 rep Urban League of London	Up to 11 members-at-large

Diversity, Inclusion and Anti-Oppression Advisory Committee	10 members-at-large 1 member – primarily French speaking	Up to 11 members-at-large
Environmental and Ecological Planning Advisory Committee	17-23 appointments (may have knowledge and expertise in biology, ornithology, geology, botany, zoology, landscape architecture, forestry, ecology, resource management, hydrology, geography, geography, environmental planning, limnology and/or natural history) 1 rep from ACE	Up to 23 members-at-large
London Advisory Committee on Heritage (LACH)	3 members-at-large 1 youth-orientated organization rep Reps from: built heritage, local history, archaeology/anthropology, natural heritage, movable heritage (archives), movable heritage (museum/gallery), neighbourhoods, development community, London and area Planning consultants, the Indigenous population and London Society of Architects	Up to 15 members-at-large
London Housing Advisory Committee (LHAC)	9 members-at-large 2 alternate members-at-large 1 rep – non-profit sector 1 rep – tenants sector 1 rep – private sector 1 rep – Emergency Housing Sector	Up to 15 members-at-large
Transportation Advisory Committee (TAC)	4 members-at-large 1 rep – CAC 1 rep – ACE 1 rep – CSCP 1 rep – ACCAC 1 rep – London Middlesex Road Safety Committee 1 rep – Canadian Automobile Assoc. 1 rep – Urban League 1 rep – Chamber of Commerce 1 rep – LDI	Up to 13 members-at-large
Trees and Forests Advisory Committee (TFAC)	5 members-at-large 1 rep – forestry expertise 1 rep – local business association, or tree-related business 1 rep – active community planting group 1 rep – Western University 1 rep – Urban League of London	Up to 10 members-at-large

*Noting that ‘specialized’ resources may be sought by the voting membership.

There are a variety of goals that may be accomplished with this direction.

1. the recommendation of DV4C to make the appointment process less formal
2. potential reduction of special interest groups and advocacy, in favour of citizens-at-large (general interest); improved community representation
3. easier recruitment, less requirement to seek specific qualifications for members
*noting that anyone can attend meetings, and the AC may seek contributions from specific areas at any time
4. easier recruitment by streamlining the time commitment; some members participate in multiple ACs in addition to the ‘main’ committee they have been appointed to, which generally also has sub-committee/working group commitments

Application for Appointment to City of London Advisory Committees

We are committed to providing a fully accessible recruitment process. Please let us know if you require any accommodation: accessibility@london.ca.

Please complete all fields. You may save and email your completed application to advisorycommittee@london.ca. Or, you may print it and mail it to the City Clerk's Office, London City Hall, PO Box 5035, London ON N6A 4L9.

The personal information on this form is collected under the authority of the *Municipal Act, 2001* and will be used to assist the Municipal Council in selecting appointees for various City of London Boards, Commissions and Committees. Questions about this collection may be referred to the City Clerk, 300 Dufferin Avenue, London ON; Tel: 519-661-2489 ext. 4937

Application

I am interested in serving on the following committee(s):

- ☐ Accessibility Advisory Committee
- Do you have a disability? ☐ Yes ☐ No
- ☐ Advisory Committee on the Environment
- ☐ Agricultural Advisory Committee
- ☐ Animal Welfare Advisory Committee
- ☐ Childcare Advisory Committee
- ☐ Community Safety and Crime Prevention Advisory Committee
- ☐ Cycling Advisory Committee
- ☐ Diversity, Inclusion and Anti-Oppression Advisory Committee
- ☐ Environmental and Ecological Advisory Committee
- ☐ London Advisory Committee on Heritage
- ☐ London Housing Advisory Committee
- ☐ Transportation Advisory Committee
- ☐ Trees and Forests Advisory Committee

Contact Information

Name

Address

City, Province, Postal Code

Phone Number

Email

Experience and Qualifications

If you have experience on a London Advisory Committee, please provide dates and details.

(maximum 750 characters, attach an extra sheet if you need more space)

What do you hope to contribute or learn as part of an Advisory Committee?
(maximum 750 characters, attach an extra sheet if you need more space)

How will you support the work of an Advisory Committee?
(maximum 750 characters, attach an extra sheet if you need more space)

Please describe additional experience, training, or community involvement that will help you in your role as an Advisory Committee Member.
(maximum 750 characters, attach an extra sheet if you need more space)

Confirmations

You must be able to make these confirmations to apply for this role.

- ☐ I am a resident of London.
- ☐ I am at least 18 years old.
- ☐ I am not a City employee or Council member.
- ☐ I understand that the commitment may be up to 4 hours per month to attend meetings and prepare.
- ☐ I understand that my application will be included on a public agenda that is published on the City website.

By submitting this application for consideration, you are declaring that the information in your application is true.

The City of London has a strong commitment to workplace diversity and inclusion, and this commitment extends to our Advisory Committee appointments. An inclusive workplace creates a more supportive environment and ultimately helps us to provide better service to our diverse community.

Municipal Council approves all appointments. The appointment process is governed by [Council's policy on Advisory Committees](#). For more information, please contact the City Clerk's Office at 519-661-2489, ext. 4599.

(Optional) How did you hear about this opportunity?

- ☐ City website
- ☐ Social media (e.g. Facebook, Twitter)
- ☐ Contact from the City Clerk's Office
- ☐ Conference or networking event
- ☐ Friend or co-worker
- ☐ Printed newspaper advertisement
- ☐ Other – specify _____

From: van Holst, Michael
Sent: Sunday, March 17, 2019 11:05 PM
To: csc <csc@london.ca>
Subject: Suggestion for Advisory Committees

Dear Chair and Member of the CSC,

Having looked at the report for item 2.6 on your March 19th, 2019 agenda, I would like offer the suggestion that we replace advisory committees with the following:

1. Expert Advisory Panels consisting of experts in the related field who are providing complimentary consulting services as an act of civic duty and generous concern for the advancement of the city.
2. Public input panels consisting of citizens and advocates concerned about a particular issue for which public engagement in the form of a focus group would be valuable.

Panels could either function on an ongoing basis, meet at the call of the committee they report to, or be established on a per issue basis.

I believe that the citizens' time and the city's funds are less likely to be wasted if council is very clear on the nature and mandate of our advisory committees.

Sincerely,

Michael van Holst

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES AND CHIEF BUILDING OFFICIAL
SUBJECT:	SINGLE-SOURCE PROCUREMENT: MICROFICHE DIGITIZATION MES HYBRID

RECOMMENDATION

1. That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the following actions **BE TAKEN** with respect to MES Hybrid Solutions:
 - (a) the price of \$275,000 (HST excluded) negotiated with MES Hybrid Document Systems for the provision of one year of digital scanning services **BE ACCEPTED** on a Single Source basis in accordance with sections 14.4 (d) and (e) of the Procurement of Goods and Services Policy;
 - (b) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this purchase;
 - (c) the approvals given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract for this purchase; and,
 - (d) the Mayor and City Clerk **BE AUTHORIZED** to execute any contract, statement of work or other documents, if required, to give effect to these recommendations.
2. The financing for these acquisitions **BE APPROVED** as set out in the Sources of Financing Report attached hereto as Appendix "A";
3. That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting to be held on (DATE)
 - (a) authorize and approve an Agreement (Schedule "A" to the by-law) between The Corporation of the City of London and MES Hybrid for scanning purposes; and
 - b) authorize the Mayor and the City Clerk to execute the Agreement authorized and approved in part a), above.

BACKGROUND

Development & Compliance Services (DCS) has an efficient electronic document scanning system that has been in place for twenty years with 3.5 full-time positions scanning various types of documents into the CityHub system. Originals are stored or destroyed, depending on the regulations within the Records Retention By-law. Having and maintaining easy access to important and sometimes vital digital documents for both internal staff and London citizens is a valuable tool for both parties. Documents that pre-date the late 1990's as well as the current AMANDA system, are stored on microfiche and are available on the 7th floor of City Hall.

Microfiche has always been an important research tool for DCS, as well as other service areas within the Corporation. Access to these records, while necessary, has at times been cumbersome. The fiche predominantly captures previous building and plumbing permit applications, construction plans, land severances and minor variance decisions, site servicing plans, and private drain connection documents; these can date back as far as six decades, and sometimes before. The public also has access to these records with the MFIPPA regulations being applied when required.

Below are some examples of those who access microfiche and for what reason:

Building Division

Staff members reference the fiche on a daily basis. Most times it is to confirm compliance of zoning regulations (i.e., commercial business, a rental unit, or a commercial sign), obtain structure data of a building, or understand the history of a property. Not only does this information assist the Corporation in providing excellence in service when the information is available and accessible, it may also assist the customer with additional knowledge of a property and may help them to confirm information they believe to be true. Often customers are performing their due diligence before purchasing a property or signing a lease to establish a business on a property they do not own.

Engineering

Plumbing records are valuable to the corporate Infrastructure Renewal Program and can reduce costly change orders that occur when we lack accurate site servicing information. Plumbing records are most often used to determine the location of a building sewer on a property, in addition to the location of clean-outs and the main stack. They also provide homeowners with their plumbing plans. This information is helpful when planning drainage work on private property. Without a plumbing plan, the homeowner may need to pay for camera/video work to understand how their plumbing and private sewer is configured.

Development Services

Although all registered Development Agreements can be obtained by doing a title search and finding the agreement in a parcel abstract provided by the Land Registry Office (LRO), the LRO will only provide the text of agreements, whereas the microfiche will not only include a copy of the approved plans but also other useful background information including supporting correspondence, reports and/or notations.

CHALLENGES

Evidently, this antiquated document imaging system stores useful information that is accessed on a regular basis, but the manner in which it is stored needs to be updated.

Reasons to convert:

- Inefficient use of staff time and effort
 - The number of corporate users who visit the 7th floor to obtain the information has increased. Staff time spent waiting for the machine to be available, skimming through the fiche and then printing can take a minimum of 30 minutes
 - Time could be better spent if this information was digital and only a few clicks away, saved on a network drive
- Obsolete equipment
 - Replacement ink toner and parts are hard to find or no longer produced
 - Microfiche machine rentals are too expensive to purchase
- Labour rates will continue to increase
 - The longer we put off digital conversion, the more expensive it will be to obtain the services of a third party
- Desperate need for office space
 - The fiche reader/printer and four cabinets take up to 7.5 sq meters (80 sq ft) of prime office space in an area that is already limited on space
- Increased turnaround time to provide documents to the public
 - Accessing the information is time-consuming and can be complicated
 - Customers are left waiting at the counter while a service representative is conducting research on their behalf
 - Queues form as research is being conducted for a customer, creating longer waiting times for subsequent customers and resentment at the lack of efficiency that may be perceived

Transitioning the documents to a digital format will allow staff and customers quicker access to information as the documents will be stored in one location as opposed to several.



Examples of fiche



The microfiche reader and 4 fiche cabinets (2 shown) take up 80 sq.ft of space

FINANCIAL IMPACT & REQUEST

Abiding by the Procurement of Goods and Services Policy, purchase orders were issued in 2017 to MES Hybrid Document Systems (MES) to convert less than \$50,000 of fiche annually.

To date, MES has completed two years' worth of digitization, which is about 53,000 sheets of fiche. Fiche with municipal streets "A" through to "M" have been converted and the following benefits have been found:

- Significantly improved customer service and turnaround processing time
- Staff morale has improved when performing these searches
- The digital documents are easy to use and readily accessible for regular users within the corporation

There are approximately 112,000 sheets of fiche remaining, at an estimated \$275,000.

This request is to receive approval to have the remaining fiche converted in 2019 as opposed to breaking the project up into \$50k portions over the next several years.

Funding for this project will come from the Efficiency, Effectiveness & Economy Reserve. There is sufficient capacity within this reserve to accommodate this contribution. There are no anticipated additional operating costs associated with this project.

PROCUREMENT OF GOODS & SERVICES
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Section 14, of the City's Procurement of Goods and Services Policy indicates that *"the procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular"*. In this case, the following criteria for a Single Source process apply:

- 1) There is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e. contract extension or renewal) (s. 14.4d); and
- 2) The service requires special knowledge, skills, expertise or experience (s.14.4 e).

CONCLUSION

This microfiche digitization project has already proven to be worth the financial investment. The cost to convert the remaining fiche is \$275,000. Development & Compliance Services is requesting approval to continue working with MES to expeditiously convert the remaining fiche in 2019. Completing the conversion project in 2019 will not only provide staff and the public with the documents they need in a prompt and efficient manner, but will also require less financial commitment from the Corporation.

PREPARED BY:	CONCURRED BY:
CATHERINE DEFOREST MANAGER, BUSINESS SERVICES DEVELOPMENT & COMPLIANCE SERVICES	IAN COLLINS DIRECTOR, FINANCIAL SERVICES, FINANCE & CORPORATE SERVICES
RECOMMENDED BY:	
GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL	

cc. J. Freeman L. Green M. Daley

APPENDIX 'A'

#19021

Chair and Members
Corporate Services Committee

March 19, 2019
(Award Contract)

**RE: Single-Source Procurement: Microfiche Digitalization MES Hybrid
(Subledger NT19GG01)
New Capital Project GG1536 - Microfiche Digitalization MES Hybrid
MES Hybrid Document Systems - \$275,000.00 (excluding H.S.T.)**

FINANCE & CORPORATE SERVICES REPORT ON THE SOURCES OF FINANCING:

Finance & Corporate Services confirms that the cost of this project, although not included in the Capital Works Budget, can be accommodated with a drawdown from the Operating Efficiency, Effectiveness & Economy Reserve, and that, subject to the adoption of the recommendations of the Managing Director, Development & Compliance Services and Chief Building Official, the detailed source of financing for this project is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>This Submission</u>	<u>Revised Budget</u>
External Contractor	\$0	\$279,840	\$279,840
NET ESTIMATED EXPENDITURES	<u>\$0</u>	<u>\$279,840</u>	<u>\$279,840</u>

SOURCE OF FINANCING:

Drawdown from Operating Efficiency, Effectiveness & Economy Reserve	\$0	\$279,840	\$279,840
TOTAL FINANCING	<u>\$0</u>	<u>\$279,840</u>	<u>\$279,840</u>

Financial Note:

Contract Price	\$275,000
Add: HST @13%	35,750
Total Contract Price Including Taxes	310,750
Less: HST Rebate	30,910
Net Contract Price	<u>\$279,840</u>

NOTES:

- 1) The funding is available as a drawdown from the Efficiency, Effectiveness & Economy Reserve. The uncommitted balance will be approximately \$14.5 million after the approval of this project.

lp

Kyle Murray
Director, Financial Planning & Business Support

REVISED REPORT

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	G. KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL
SUBJECT:	SINGLE-SOURCE PROCUREMENT: MICROFICHE DIGITIZATION MES HYBRID

RECOMMENDATION

1. That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the following actions **BE TAKEN** with respect to MES Hybrid Solutions:
 - (a) the price of \$275,000 (HST excluded) negotiated with MES Hybrid Document Systems for the provision of one year of digital scanning services **BE ACCEPTED** on a Single Source basis in accordance with sections 14.4 (d) and (e) of the Procurement of Goods and Services Policy;
 - (b) the Civic Administration **BE AUTHORIZED** to undertake all the administrative acts that are necessary in connection with this purchase;
 - (c) the approvals given herein **BE CONDITIONAL** upon the Corporation entering into a formal contract for this purchase; and,
 - (d) the Mayor and City Clerk **BE AUTHORIZED** to execute any contract, statement of work or other documents, if required, to give effect to these recommendations.
2. The financing for these acquisitions **BE APPROVED** as set out in the Sources of Financing Report attached hereto as Appendix 'A';
3. That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, the attached proposed by-law (Appendix 'B') **BE INTRODUCED** at the Municipal Council meeting to be held on March 26, 2019
 - (a) authorize and approve an Agreement (Schedule 'A' to the by-law) between The Corporation of the City of London and MES Hybrid for scanning purposes; and
 - (b) authorize the Mayor and the City Clerk to execute the Agreement authorized and approved in part a), above.

BACKGROUND

Microfiche is a piece of film containing microphotographs of pages of a newspaper, catalog, or other documents. The City of London (“City”) has been using microfiche throughout the Corporation for decades, providing access to important and vital digital documents.

Microfiche has always been an important research tool for many service areas. Access to these records, while necessary, has at times been cumbersome. The fiche predominantly captures previous building and plumbing permit applications, construction plans, land severances, minor variance decisions, site servicing plans, and private drain connection documents; these can date back as far as six decades, and sometimes earlier. The public also has access to these records with the MFIPPA regulations being applied when required.

Several service areas have access to the microfiche, including:

Building Division

Staff members reference the fiche on a daily basis. Mainly to confirm compliance of zoning regulations (i.e., commercial business, a rental unit, or a commercial sign), obtain structure data of a building, or understand the history of a property. Not only does this information assist the Corporation in providing excellence in service, it may also assist the customer with additional knowledge of a property and may help them to confirm information they believe to be true. Often customers are performing their due diligence before purchasing a property or signing a lease to establish a business on a property they do not own.

Engineering

Plumbing records are valuable to the corporate Infrastructure Renewal Program and can reduce costly change orders that occur when we lack accurate site servicing information. Plumbing records are most often used to determine the location of a building sewer on a property, in addition to the location of clean-outs and the main stack. They also provide homeowners with their plumbing plans. This information is helpful when planning drainage work on private property. Without a plumbing plan, the homeowner may need to pay for camera/video work to understand how their plumbing and private sewer is configured.

Development Services

Although all registered Development Agreements can be obtained by doing a title search and finding the agreement in a parcel abstract provided by the Land Registry Office (LRO), the LRO will only provide the text of agreements. Whereas, the microfiche will not only include a copy of the approved plans but also other useful background information including supporting correspondence, reports and/or notations.

CHALLENGES

Although microfiche stores very useful information that is accessed regularly, this technology needs to be updated.

Reasons to convert:

- Inefficient use of staff time and effort
 - The number of corporate users who visit the 7th floor, where the microfiche is located, to obtain the information has increased. Staff time spent waiting for the machine to be available, skimming through the fiche and then printing can take a minimum of 30 minutes
 - Time could be better spent if this information was digital and only a few clicks away, saved on a network drive
- Obsolete equipment
 - Replacement ink toner and parts are hard to find or no longer produced
 - Microfiche machines are too expensive to purchase or rent
- Labour rates will continue to increase
 - The longer we delay digital conversion, the more expensive it will be to obtain the services of a third party
- Need for office space
 - The fiche reader/printer and four cabinets take up to 7.5 sq meters (80 sq ft) of prime office space in an area that is already limited on space
- Increased turnaround time to provide documents to the public
 - Accessing the information is time-consuming and can be complicated
 - Customers are left waiting at the counter while a service representative is conducting research on their behalf
 - Queues form as research is being conducted for a customer, creating longer waiting times for subsequent customers and resentment at the lack of efficiency that may be perceived

Transitioning the documents to a digital format will allow staff and customers quicker access to information as the documents will be stored in one location as opposed to several.

FINANCIAL IMPACT & REQUEST

Abiding by the Procurement of Goods and Services Policy, purchase orders were issued in 2017 to MES Hybrid Document Systems (MES) to convert less than \$50,000 of fiche annually.

To date, MES has completed two years' worth of digitization, which is approximately 53,000 sheets of fiche. Fiche with municipal streets "A" through to "M" have been converted and the following benefits have been found:

- Significantly improved customer service and turnaround processing time
- Staff morale has improved when performing these searches
- The digital documents are easy to use and readily accessible for regular users within the corporation

There are approximately 120,270 sheets of fiche remaining, at a cost of \$275,000, which includes a small contingency.

This request is to receive approval to have the remaining fiche converted in 2019. By doing so, the Corporation will realize savings of approximately 12%, as the vendor will honour 2018 rates.

Funding for this project will come from the Efficiency, Effectiveness & Economy Reserve. There is sufficient capacity within this reserve to accommodate this project. There are no anticipated additional operating costs.

<p align="center">PROCUREMENT OF GOODS & SERVICES</p>
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Section 14, of the City’s Procurement of Goods and Services Policy indicates that *“the procurement may be conducted using a Single Source process if the goods and/or services are available from more than one source, but there are valid and sufficient reasons for selecting one supplier in particular”*. In this case, the following criteria for a Single Source process apply:

- 1) There is a need for compatibility with goods and/or services previously acquired or the required goods and/or services will be additional to similar goods and/or services being supplied under an existing contract (i.e. contract extension or renewal) (s. 14.4d); and
- 2) The service requires special knowledge, skills, expertise or experience (s.14.4 e).

<p align="center">CONCLUSION</p>

This microfiche digitization project has already proven to be worth the financial investment. The cost to convert the remaining fiche is \$275,000. Staff is requesting approval to continue working with MES to expeditiously convert the remaining fiche in 2019. Completing the conversion project in 2019 will not only provide staff and the public with the documents they need in a prompt and efficient manner, but will also require less financial commitment from the Corporation.

PREPARED BY:	CONCURRED BY:
CATHERINE DEFOREST MANAGER, BUSINESS SERVICES DEVELOPMENT & COMPLIANCE SERVICES	IAN COLLINS, CPA, CMA DIRECTOR, FINANCIAL SERVICES FINANCE & CORPORATE SERVICES
RECOMMENDED BY:	
GEORGE KOTSIFAS, P. ENG. MANAGING DIRECTOR, DEVELOPMENT AND COMPLIANCE SERVICES & CHIEF BUILDING OFFICIAL	

cc. J. Freeman
L. Green
M. Daley
D. Mounter

APPENDIX 'A'

#19021

Chair and Members
Corporate Services Committee

March 19, 2019
(Award Contract)

**RE: Single-Source Procurement: Microfiche Digitalization MES Hybrid
(Subledger NT19GG01)
New Capital Project GG1536 - Microfiche Digitalization MES Hybrid
MES Hybrid Document Systems - \$275,000.00 (excluding H.S.T.)**

FINANCE & CORPORATE SERVICES REPORT ON THE SOURCES OF FINANCING:

Finance & Corporate Services confirms that the cost of this project, although not included in the Capital Works Budget, can be accommodated with a drawdown from the Operating Efficiency, Effectiveness & Economy Reserve, and that, subject to the adoption of the recommendations of the Managing Director, Development & Compliance Services and Chief Building Official, the detailed source of financing for this project is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>This Submission</u>	<u>Revised Budget</u>
External Contractor	\$0	\$279,840	\$279,840
NET ESTIMATED EXPENDITURES	<u>\$0</u>	<u>\$279,840</u>	<u>\$279,840</u>

SOURCE OF FINANCING:

Drawdown from Operating Efficiency, Effectiveness & Economy Reserve	\$0	\$279,840	\$279,840
TOTAL FINANCING	<u>\$0</u>	<u>\$279,840</u>	<u>\$279,840</u>

Financial Note:

Contract Price	\$275,000
Add: HST @13%	35,750
Total Contract Price Including Taxes	310,750
Less: HST Rebate	30,910
Net Contract Price	<u>\$279,840</u>

NOTES:

- 1) The funding is available as a drawdown from the Efficiency, Effectiveness & Economy Reserve. The uncommitted balance will be approximately \$14.5 million after the approval of this project.

lp



Kyle Murray
Director, Financial Planning & Business Support

APPENDIX 'B'

Bill No.

By-law No.

A By-law to approve the Agreement between the Corporation of the City of London and Hybrid Document Systems Inc. and to authorize the Mayor and City Clerk to execute the agreement.

WHEREAS section 5(3) of the Municipal Act, 2001 provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 8 of the Municipal Act, 2001 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Council wishes to enter into an agreement with Hybrid Document Systems Inc for the purchase of Microfilm Jacket Scanning;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Agreement between The Corporation of the City of London and Hybrid Document Systems Inc substantially in the form attached as Schedule "A" to this by-law, is hereby approved.
2. The Mayor and the City Clerk are hereby authorized to execute the Agreement approved under section 1, above.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on March 26, 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First Reading – March 26, 2019
Second reading – March 26, 2019
Third reading – March 26, 2019

Project Overview on the Outsourcing Purchase Agreement For Microfilm Jacket Scanning Between Hybrid Document Systems Inc. ("HDS") and The City of London ("The Client") Dated the 14th day of March, 2019.

- **Image Format:** HDS will save all digital files received from The Client as PDF images, scanned at 300 DPI, black & white mode.
- **Reduction Ratio:** HDS will make all reasonable efforts to determine and digitize the microfilm at the original reduction ratio, up to a maximum of 32X for 16mm film and 24X for 35mm film.
- **Scanning Preparation:** To protect against loss of film from loose or "unseamed" jackets, all microfilm jackets will be inspected prior to scanning. During this step, any damaged jackets will be repaired as required and a rate of \$6.00/jacket. Depending upon age and use, some jackets might require cleaning prior to scanning. HDS will also move all 35mm jackets to back of boxes to process 16mm and 35mm separately during scanning
- **Batch Scanning Process:** Microfilm jacket scanning assumes an automated batch process on the film contained in the jacket – meaning that due to the nature of the jacket being updated over a course of time with different densities on different sections of film, not every image in the jacket will be adjusted to gain the best results unless client has agreed to hourly pricing for this.
- **Indexing:** The records will be indexed by standard jacket titles. Index values will be entered exactly as they were received by HDS. Where multiple jackets have the same address on the header, HDS will merge into a single, multipage pdf for specific address. Files will be indexed as per the following: Municipal Number and Street Name *Ex. "200 King Street.pdf"*
- **Required Index Fields:** The following fields will be indexed:

Field	Average Length	Content	Capture Method
Municipal Number	3	Numeric	Data Entry
Street Name	15	Alpha	Data Entry

- **Indexing Limitations:** The following characters cannot be included in file names as they are not supported by Microsoft Windows.

< (less than)	> (greater than)	: (colon)	" (double quote)	/ (forward slash)
\ (backslash)	(vertical bar/pipe)	? (question mark)	* (asterisk)	

- **Volumes:** Based on metrics derived from completed scanning in 2017 and 2018, with total linear inches of 585, the average 16mm microfilm jacket contains 21.21 images and the average 35mm jacket contains 5.6 images. Findings demonstrated 92% of the collection to be 16mm and the remaining 8% contains 35mm film and an average of 1.2 jackets per inch requiring restoration. The Client will be billed for the actual number of images scanned and jackets repaired. With 1,140 linear inches remaining within this collection, the estimated volume remaining is as follows:
 - 1,140 inches x 105.5 jackets per inch equals 120,270 jackets to be scanned
 - With 92% of the collection 16mm, it is estimated there is 110,648 jackets of 16mm to be scanned. With an average of 21.21 images per jacket, resulting images from 16mm film is estimated at 2,346,844
 - With 8% of the collection 35mm, it is estimated there is 9,622 jackets of 35mm to be scanned. With an average of 5.6 images per jacket, resulting images from 35mm film is estimated at 53,883
 - Jackets requiring repair is estimated to be 1,140 inches x 1.2 jackets equaling 1,368 to be repaired
- **Best Available Quality:** Not all microfilm jackets are of sufficient quality to be scanned without loss of information. It is not possible to convert poor quality microfilm images into high quality digital images.
- **Projected Timeline:** With a total of 120,270 jackets estimated, the projected timeline to complete this project is 12 months from pick up date.
- **Transportation:** Transportation (point-to-point) will be performed by HDS staff. In one complete shipment. HDS will supply all boxes and pack microfilm jackets at time of pick up. HDS staff will create a manifest of each box using a from-to range.

- **Return Media:** HDS will deliver all scanned images and indexed data to The Client via external hard drive.
- **Out Of Scope Conditions:** Any work received that is outside the scope of this Service Agreement will result in a temporary project halt while issue is addressed with The Client.
- **Image Retention:** HDS will hold copies of the returned electronic images on our servers for 3 months after the return of each work order. After the 3 month period HDS will delete all images from our servers. Earlier removal at the request of The Client is available.
- **Document Retrieval:** While The Client's records are in our possession for conversion, HDS will provide up to 15 file retrievals per week at no charge. Additional retrievals will be billed at \$15.00 per file requested. All requested files will be returned electronically via secure electronic transfer. Requests should be submitted using our online form found here <http://www.mesltd.ca/file-request/>
- **Down Payment:** Projects with an estimated total above \$100,000.00 require a 25% down payment upon commencement of the project.
- **Minimum Charge Projects:** Projects falling below \$2500.00 will be subject to a minimum charge of \$2500.00. Shipping/transportation is not included in minimum charge applications and will be billed at the prevailing rates.

Client Purchase Order Details:

Please indicate below your purchase order number that is associated with this project. If your organization does not use purchase orders please check the "Not Applicable" option.

Purchase Order Number: _____

☐ *Not Applicable*

Client Information				Invoicing (If Different)			
Company:	City of London			Company:	City of London		
Address:	300 Dufferin Street			Address:	PO Box 5035		
City:	London			City:	London		
Province:	Ontario	Postal:	N6B 1Z2	Province:	Ontario	Postal:	N6A 4L9
Contact:	Catherine DeForest			Contact:	Accounts Payable – Room 406		
Phone:	1-519-661-2500 x 1541			Phone:			
Email:	cdeforest@london.ca			Email:			

Project Pricing

Type	Unit of Measure	Unit Price
16mm Processing	Per jacket	\$1.25
	Per image	\$0.032
35mm Processing	Per jacket	\$1.25
	Per image	\$0.25
Jacket Repair	Per Jacket	\$6.00

Kristen Bowers

HDS Representative

March-14-19

Date
Authorizing Client Signature
Date

Comments:

1. Terms & Condition Of Sale
2. Orders accepted are subject to the conditions set forth herein and no agreement or other understanding in any way modifying these conditions shall be binding upon the Seller unless made in writing, and accepted over the signature of an authorized executive of the Seller.
3. Payment terms for new clients and clients without current credit approval is payment in full prior to shipment.
4. A 3% surcharge will be applied for all credit card payments.
5. If any sales, excise, occupation, or use tax is applicable to this transaction, the amount will be added to the price stated herein.
6. All orders are "FOB" Shipping Point. Destination charges will be added to the invoice unless specifically excluded. The method of transportation and carrier will be of the Seller's selection. If shipment is made at Customer request via a method other than that which would normally be used, or if special handling is necessary due to receiving limitation of the customer, additional charges will be added to the invoice.
7. This agreement may be signed in counterparts, each of which will be deemed an original and all of which together shall constitute one and the same agreement. A facsimile signature of one or more of the parties hereto shall be deemed an original signature for all purposes.

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	2018 STATEMENT OF REMUNERATION AND EXPENSES ELECTED AND APPOINTED OFFICIALS

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions **BE TAKEN**:

- a) **THAT**, in accordance with Section 284 of the *Municipal Act, 2001*, the Statements of Remuneration and Expenses for Elected and Appointed Officials **BE RECEIVED** for information,
- b) **THAT**, in accordance with City Council resolution of October 2015, the Council compensation and estimated taxable equivalent be included in future reports and as such **BE RECEIVED** for information,
- c) **THAT**, in accordance with City Council resolution of March 2012, the annual report on the Mayor's Office's expenditures **BE RECEIVED** for information, and
- d) **THAT**, in accordance with City Council Travel and Business Expenses Policy, the Statement of Travel Expenses for Senior Administration Staff **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Final Report of the Council Compensation Review Task Force, August 21, 2017 meeting of Strategic Priorities and Policy Committee, Scheduled Item # 3

Council Policy – Issuance of Technology Equipment to Council Members, July 17, 2018 meeting of Corporate Services Committee, Consent Item # 2.2

Elected Officials Remuneration – One Third Non Taxable Allowance, October 9, 2018 meeting of Corporate Services Committee, Consent Item # 2.4

BACKGROUND

Section 284 of the *Municipal Act, 2001* requires the Treasurer of every municipality, on or before the 31st of March in each year, to submit to the City Council for the preceding year, an itemized statement of remuneration and expenses paid to each member of Council and Council-appointed members of Committees and Sub-committees and local bodies.

Section 284(1) reads as:

The treasurer of a municipality shall in each year on or before March 31 provide to the council of the municipality an itemized statement on remuneration and expenses paid in the previous year to,

- (a) *each member of council in respect of his or her services as a member of the council or any other body, including a local board, to which the member has been appointed by council or on which the member holds office by virtue of being a member of council;*
- (b) *each member of council in respect of his or her services as an officer or employee of the municipality or other body described in clause (a); and*
- (c) *each person, other than a member of council, appointed by the municipality to serve as a member of any body, including a local board, in respect of his or her services as a member of the body. 2001, c. 25, s. 284 (1).*

The attached Appendices have been prepared for the year ending December 31, 2018, in conjunction with this requirement of the *Municipal Act, 2001*, as follows:

- Appendix “A” - Statement of Remuneration and Expenses paid to or on behalf of Elected Officials; and
- Appendix “B” - Statement of Remuneration and Expenses paid to or on behalf of Appointed Officials

Council Compensation and Estimated Taxable Equivalent

On October 28, 2015, Council resolved that, in all future reports and/or publication information related to Council compensation, the equivalent adjusted compensation required to maintain the same net income without the one-third tax exemption, be included in the report.

The 2018 annual remuneration for Elected Officials is listed in the table below, including the estimated taxable equivalent, calculated using the marginal tax rate, based upon the remuneration amount, in accordance with Provincial legislation:

	2018 Remuneration with one-third tax exempt provision ¹	2018 Estimated Taxable Equivalent ^{2, 3, 4}
Mayor	\$ 106,030	\$ 138,025
Councillor	\$ 34,033	\$ 36,878

¹ Remuneration based on prior term of Council.
² Estimated taxable equivalent based on marginal tax rates per <https://www.taxtips.ca/taxrates/on.htm>
³ The taxable equivalent remuneration listed is a calculation to estimate the gross annual remuneration required to result in the same 2018 annual remuneration, if the one-third tax exemption was removed.
⁴ Excludes vehicle & technology allowance.

Staff have provided the estimated taxable equivalent based on a simplified method, using the marginal tax rate, for information purposes only, as has been historically communicated.

Elimination of the One-Third Tax Exemption

In 2017, with the work of the Council Compensation Review Task Force well underway, Federal Budget 2017 contained a legislative change to eliminate the “one-third tax free” allowance for elected officials effective January 1, 2019. This legislation received Royal Assent on June 22, 2017 (Bill C 44). At the August 21, 2017 meeting of the Strategic Priorities and Policy Committee, the Council Compensation Review Task Force presented their Final Report of their review along with recommendations. At its meeting held on August 22, 2017, one of the actions that Municipal Council resolved to be taken with respect to Council compensation was:

- e) notwithstanding that there will be a minor budgetary impact by doing so, the City Clerk BE DIRECTED to bring forward the necessary by-law to eliminate the “1/3 tax free” allowance for Council Members, effective the next Council term.

On October 16, 2018, Municipal Council resolved the following:

That the following actions be taken with respect to Elected Officials Remuneration:

- a) the proposed by-law appended to the staff report dated October 9, 2018 as Appendix “A” BE INTRODUCED at the October 16, 2018 meeting of the Municipal Council to eliminate the “one-third tax free” allowance for Elected Officials; and
- b) the Mayor’s salary at January 1, 2019, BE INCREASED to \$138,025 annually, in order to accommodate for the elimination of the allowance noted in part a), above and maintain the “take home” pay at the current level. (2.4/18/CSC) (2018-C06)

Based on subsection 283 (6) of the *Municipal Act, 2001*, an elected member of council would become fully taxable January 1, 2019, as the one-third tax exemption would be eliminated.

No action was required by Municipal Council at its October 16, 2018 meeting with respect to a Ward Councillors annual remuneration as Council had already set the annual compensation for the upcoming term of Council to the median full time employment for Londoners as identified in the 2016 Census. Based on 2016 Census data, the median employment income in 2015 for full-year full-time workers was \$51,181.

In Appendix “A”, attached, the Elected Officials’ individual 2018 actual remuneration (stipends), benefits and expenses are listed. Council expenses and remuneration were paid in accordance with Council Policy as set out through the following By-Laws:

- By-law No. CPOL.-372-453: Discussion of Remuneration for Elected Officials and Individuals Appointed by City Council to Serve on its Committees or a Local Agency, Board or Commission Policy
- By-law No. CPOL.-228(a)-427: Council Members’ Expense Account Policy
- By-law No. CPOL.-229(a)-428: Mayor’s Expenses Policy
- By-law No. CPOL.-227(a)-451: Travel & Business Expenses
- By-law No. CPOL.-68(a)-370: Issuance of Technology Equipment to Council Members Policy

Stipends and taxable employer-paid benefits are subject to the one-third exemption. The calculation to determine the taxable equivalent would not affect the amount reported under the Expenses column.

Issuance of Technology Equipment to Council Members Policy

In 2018, Council adopted a new policy related to the technology equipment issued to council members for the 2018-2022 Council term. Council members have the option of:

- receiving the corporate standard issuance, or
- being reimbursed for self-purchased equipment, or
- receiving an allowance

The full details of the policy can be accessed through the following link:

<http://www.london.ca/city-hall/city-council/AZ%20Documents/Issuance%20of%20Technology%20Equipment%20to%20Council%20Members%20Policy.pdf>

In a year where expenses or allowances are incurred under this policy, the Annual Statement of Remuneration and Expenses report will include these expenses/allowances as well. 2018 will be the first year of reporting under this policy.

If a council member selects the corporate standard or reimbursement option, the amounts are reported as an expense in the appendix. If a council member selects the allowance option, the amounts are reported as a benefit in the appendix. The allowance option is considered a taxable benefit and is reported as such on the T4.

Mayor's Office

On March 20 and 21, 2012, Council resolved that the Mayor be requested to provide annual reports detailing the Mayor's Office's expenditures. The 2018 expenses and a brief description provided by the Mayor's Office are below. The travel expenses are included in Appendix "A", attached.

	Matt Brown (Jan 1-Nov 30)	Edwin Holder (Dec 1-31)	Total
Hosting/Entertainment Used for hosting dignitaries and guests and special events requiring ticket purchase.	\$506.62	\$305.28	\$811.90
Gifts & Souvenirs Purchases include City of London pins and swag for citizen requests, visitors and dignitaries.	\$471.50	\$533.99	\$1,005.49
Purchased Services Includes various services related to the State of the City Address for Mayor Brown; includes Christmas parade supplies and services related to the State of the City Address for Mayor Holder.	\$8,480.30	\$11,648.63	\$20,128.93
Professional Fees Consultant Consultant for the State of the City Address for Mayor Brown; Communications consulting for the State of the City Address for Mayor Holder	\$4,550.00	\$2,835.22	\$7,385.22
Total	\$14,008.42	\$15,323.12	\$29,331.54

The details for the above Mayor's Office expenses can be accessed through the following link: <http://www.london.ca/city-hall/mayors-office/Documents/Mayor-Expenses-Q4.pdf>

Statements of Travel Expenses for Senior Administration

The Council Travel and Business Expenses Policy requires the City Treasurer to submit a list of expenses incurred during the previous calendar year for the Senior Administration of certain local Boards and Commissions as well as Senior Administration of the City of London.

The attached Appendices have been prepared for the year ending December 31, 2018, in accordance with the Travel & Business Expenses Policy as follows:

- Appendix "C" - Statement of Out-of-Town Travel and Expenses as submitted and reviewed by Senior Administrative Officials of:
 - London Transit Commission
 - London Police Services Board
 - London Convention Centre
 - London Public Library
- Appendix "D" - Statement of Out-of-Town Travel and Expenses as submitted and reviewed by Senior Administrative Officials of the City of London.

Acknowledgements

This report was prepared with the assistance of Employee Systems and Financial Services staff.

PREPARED BY:	
SHARON SWANCE MANAGER, ACCOUNTING	JULIE KOVACS MANAGER, EMPLOYEE SYSTEMS
CONCURRED BY:	
IAN COLLINS DIRECTOR, FINANCIAL SERVICES	BILL COXHEAD MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICER
RECOMMENDED BY:	
ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER	

Attach.

2018

STATEMENT OF REMUNERATION AND EXPENSES
FOR ELECTED OFFICIALS

Appointment(s)	Stipends	Benefits	Expenses	Total \$
Mayor - Matt Brown	99,496.08	19,169.93	16,811.73 ¹	135,477.74
Vehicle allowance ²		7,700.00		7,700.00
	99,496.08	26,869.93	16,811.73	143,177.74
Mayor - Edwin Holder	6,093.68	1,452.54	658.87 ¹	8,205.09
Vehicle allowance ²		700.00		700.00
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
	6,093.68	2,152.54	3,784.91	12,031.13
Councillor Ward 1 - Michael van Holst	34,877.61	11,397.12	13,200.00	59,474.73
Vehicle allowance/reimbursement ²		1,800.00		1,800.00
Technology allowance/reimbursement/standard issuance ³			3,528.58	3,528.58
Home office internet			151.74	151.74
London Hydro Board member			601.16	601.16
	34,877.61	13,197.12	17,481.48	65,556.21
Councillor Ward 2 - Bill Armstrong	31,936.14	9,357.27	2,315.55	43,608.96
Vehicle allowance/reimbursement ²		1,650.00		1,650.00
	31,936.14	11,007.27	2,315.55	45,258.96
Councillor Ward 2 - Shawn Lewis	2,941.47	738.43	1,083.76	4,763.66
Vehicle allowance/reimbursement ²		150.00		150.00
Technology allowance/reimbursement/standard issuance ³		333.19	3,074.82	3,408.01
	2,941.47	1,221.62	4,158.58	8,321.67
Councillor Ward 3 - Mo Salih	34,877.61	7,400.80	14,276.80	56,555.21
London Police Service Board			1,621.00	1,621.00
Vehicle allowance/reimbursement ²		400.00		400.00
Technology allowance/reimbursement/standard issuance ³		2,521.50	916.65	3,438.15
Home office internet			341.86	341.86
Town and Gown Association of Ontario Membership			62.50	62.50
	34,877.61	10,322.30	17,218.81	62,418.72
Councillor Ward 4 - Jesse Helmer	34,877.61	11,192.48	6,322.27	52,392.36
Corporate Service Committee Chair	1,191.54			1,191.54
London Police Service Board			207.12	207.12
Technology allowance/reimbursement/standard issuance ³		543.51	2,537.61	3,081.12
LTC - CUTA Mobility Symposium			1,448.95	1,448.95
Middlesex-London Board of Health - Meetings			151.49	151.49
	36,069.15	11,735.99	10,667.44	58,472.58
Councillor Ward 5 - Maureen Cassidy	34,877.61	10,795.47	2,616.04	48,289.12
Community and Protective Committee Chair	1,191.54			1,191.54
Vehicle allowance/reimbursement ²		900.00		900.00
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
Home office internet			244.24	244.24
	36,069.15	11,695.47	5,986.32	53,750.94
Councillor Ward 6 - Phil Squire	34,877.61	10,023.46	3,436.10	48,337.17
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
Town and Gown Association of Ontario Membership			62.50	62.50
	34,877.61	10,023.46	6,624.64	51,525.71
Councillor Ward 7 - Josh Morgan	34,877.61	10,475.91	6,450.06	51,803.58
Federation of Canadian Municipalities Board Meetings			4,166.02	4,166.02
Vehicle allowance/reimbursement ²		450.00		450.00
Technology allowance/reimbursement/standard issuance ³		360.21	3,037.19	3,397.40
	34,877.61	11,286.12	13,653.27	59,817.00
Councillor Ward 8 - Paul Hubert	31,936.14	9,464.65	3,390.95	44,791.74
Vehicle allowance/reimbursement ²		1,650.00		1,650.00
	31,936.14	11,114.65	3,390.95	46,441.74
Councillor Ward 8 - Steve Lehman	2,941.47	951.69	326.85	4,220.01
Technology allowance/reimbursement/standard issuance ³			2,626.56	2,626.56
	2,941.47	951.69	2,953.41	6,846.57
Councillor Ward 9 - Anna Hopkins	34,877.61	10,237.41	6,070.26	51,185.28
Association of Municipalities Ontario - Meetings			921.92	921.92
Vehicle allowance/reimbursement ²		900.00		900.00
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
Home office internet			182.98	182.98
	34,877.61	11,137.41	10,301.20	56,316.22

2018

**STATEMENT OF REMUNERATION AND EXPENSES
FOR ELECTED OFFICIALS**

Appointment(s)	Stipends	Benefits	Expenses	Total \$
Councillor Ward 10 - Virginia Ridley	31,936.14	9,595.73	11,051.53	52,583.40
Civic Works Committee Chair	1,191.54			1,191.54
Ontario Good Roads Association - Meetings			99.06	99.06
Federation of Canadian Municipalities - Meetings			2,056.67	2,056.67
Vehicle allowance/reimbursement ²		1,125.00		1,125.00
Home office internet			402.78	402.78
	<u>33,127.68</u>	<u>10,720.73</u>	<u>13,610.04</u>	<u>57,458.45</u>
Councillor Ward 10 - Paul Van Meerbergen	2,941.47	951.69	-	3,893.16
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
	<u>2,941.47</u>	<u>951.69</u>	<u>3,126.04</u>	<u>7,019.20</u>
Councillor Ward 11 - Stephen Turner	34,877.61	10,529.20	5,913.27	51,320.08
Planning and Environment Committee Chair	1,191.54			1,191.54
Technology allowance/reimbursement/standard issuance ³			3,468.99	3,468.99
	<u>36,069.15</u>	<u>10,529.20</u>	<u>9,382.26</u>	<u>55,980.61</u>
Councillor Ward 12 - Harold Usher	31,936.14	6,082.28	7,406.26	45,424.68
Federation of Canadian Municipalities - Meetings			6,142.68	6,142.68
Professional Engineers of Ontario - London Chapter Luncheon ⁴			35.00	35.00
Vehicle allowance/reimbursement ²		1,650.00		1,650.00
Home office internet			296.91	296.91
	<u>31,936.14</u>	<u>7,732.28</u>	<u>13,880.85</u>	<u>53,549.27</u>
Councillor Ward 12 - Elizabeth Peloza	2,941.47	961.23	354.16	4,256.86
Vehicle allowance/reimbursement ²		90.00		90.00
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
	<u>2,941.47</u>	<u>1,051.23</u>	<u>3,480.20</u>	<u>7,472.90</u>
Councillor Ward 13 - Tanya Park	31,936.14	9,396.02	950.62	42,282.78
Federation of Canadian Municipalities - Meetings			4,812.67	4,812.67
Vehicle allowance/reimbursement ²		1,045.00		1,045.00
	<u>31,936.14</u>	<u>10,441.02</u>	<u>5,763.29</u>	<u>48,140.45</u>
Councillor Ward 13 - Arielle Kayabaga	2,941.47	961.23	149.03	4,051.73
Vehicle allowance/reimbursement ²		90.00		90.00
Technology allowance/reimbursement/standard issuance ³			3,126.04	3,126.04
	<u>2,941.47</u>	<u>1,051.23</u>	<u>3,275.07</u>	<u>7,267.77</u>
Councillor Ward 14 - Jared Zaifman	31,936.14	9,586.69	4,259.34	45,782.17
Vehicle allowance/reimbursement ²		1,100.00		1,100.00
	<u>31,936.14</u>	<u>10,686.69</u>	<u>4,259.34</u>	<u>46,882.17</u>
Councillor Ward 14 - Steve Hillier	2,941.47	967.59	328.63	4,237.69
Vehicle allowance/reimbursement ²		150.00		150.00
Technology allowance/reimbursement/standard issuance ³			2,626.56	2,626.56
	<u>2,941.47</u>	<u>1,117.59</u>	<u>2,955.19</u>	<u>7,014.25</u>

Notes:¹ Mayor's expenses

The Mayor's expenses may include Councillor and staff travel expenses who attended events as guests of or on behalf of the Mayor. Details can be found on the Mayor's 2018 Expense Report. A link is provided below:

<http://www.london.ca/city-hall/city-council/Documents/2018-Councillors-Expenses.pdf>

² Vehicle allowance/reimbursement

Councillors can elect to receive a monthly transportation allowance or a per kilometer rate reimbursement for parking and kilometer usage per By-law No. CPOL.-228(a)-427: Council Members' Expense Account Policy. Allowances are a taxable benefit and reported on Councillors' T4's and are reported under the Benefit column on this appendix. Reimbursements are not a taxable benefit and are reported under the Expense column on this appendix.

³ Technology allowance/reimbursement/standard issuance

Councillors can elect to receive the corporate standard issuance or a reimbursement for self-purchased equipment or receive an allowance per By-law No. CPOL.-68(a)-370: Issuance of Technology Equipment to Council Members Policy. Allowances are a taxable benefit and reported on Councillors' T4's and are reported under the Benefit column on this appendix. Reimbursements are not a taxable benefit and are reported under the Expense column on this appendix. These allowances and reimbursements are recorded net of refundable HST.

⁴ Professional Engineers of Ontario - London Chapter Luncheon

This expense was paid for by the Environmental and Engineering Services Division.

2018

STATEMENT OF REMUNERATION AND EXPENSES
FOR APPOINTED OFFICIALS

Appointment(s)	Stipends	Benefits	Expenses	Total \$
Committee of Adjustment - J. Fyfe-Millar Chair	6,520.25 669.83	322.83		6,843.08 669.83 <u>7,512.91</u>
Committee of Adjustment - D. Schmidt	6,520.25	442.62		<u>6,962.87</u>
Committee of Adjustment - S. Lewis Chair	6,520.25 770.80	344.27		6,864.52 770.80 <u>7,635.32</u>
Committee of Adjustment - M. Mendes	6,520.25	291.08		<u>6,811.33</u>
Committee of Adjustment - J. Preston	6,520.25	291.08		<u>6,811.33</u>
Court of Revision - W. Pol	74.00	1.44		<u>75.44</u>
Greater London International Airport Authority - B.Graham				<u>16,100.00</u>
Greater London International Airport Authority - M. O'Leary-Pickard				<u>17,850.00</u>
Greater London International Airport Authority - G. Kotsiomitis				<u>18,100.00</u>
Kettle Creek Conservation Authority - B. Mackie	1,205.26		283.88	<u>1,489.14</u>
Kettle Creek Conservation Authority - R. Winfield	1,033.08		74.26	<u>1,107.34</u>
London Hydro Inc. - M. Mathur Chair	23,011.80 4,141.20			23,011.80 4,141.20 <u>27,153.00</u>
London Hydro Inc. - G. Holburn	15,211.80			<u>15,211.80</u>
London Hydro Inc. - C. Graham	20,011.80			<u>20,011.80</u>
London Hydro Inc. - M. Sinclair	20,011.80			<u>20,011.80</u>
London Hydro Inc. - G. Valente	20,011.80			<u>20,011.80</u>
London Hydro Inc. - J. Smit	21,811.80			<u>21,811.80</u>

2018

STATEMENT OF REMUNERATION AND EXPENSES
FOR APPOINTED OFFICIALS

Appointment(s)	Stipends	Benefits	Expenses	Total \$
London Police Services Board - S. Toth	7,139.18		1,358.04	<u>8,497.22</u>
London Public Library - M. Hamou			1,220.00	<u>1,220.00</u>
London Transit Commission - S. Rooth Chair	4,464.13 829.62	206.42	1,560.90	<u>6,231.45</u> <u>829.62</u> <u>7,061.07</u>
London Transit Commission - R.D. Sheppard	4,464.13	149.19		<u>4,613.32</u>
London Transit Commission - E. Southern	4,464.13	149.19		<u>4,613.32</u>
Lower Thames Valley Conservation Authority - S.Caveney			1,115.00	<u>1,115.00</u>
Middlesex London Health Unit - T. Hunter	2,423.84		302.98	<u>2,726.82</u>
Plumbers & Drain Layers - M. Salliss	100.00			<u>100.00</u>
Plumbers & Drain Layers - S. Atchison	100.00			<u>100.00</u>
Plumbers & Drain Layers - D. Brouwer	100.00			<u>100.00</u>
Upper Thames River Conservation Authority - M. Blackie & Source Water Protection Committee Chair			1,788.90	<u>1,788.90</u>
	3,350.00			<u>3,350.00</u> <u>3,350.00</u>
Upper Thames River Conservation Authority - M. Blosch			860.50	<u>860.50</u>
Upper Thames River Conservation Authority - S. Levin			754.00	<u>754.00</u>

2018

STATEMENT OF OUT-OF-TOWN TRAVEL AND EXPENSES FOR
SENIOR ADMINISTRATIVE OFFICIALS

BOARDS AND COMMISSIONS

LONDON TRANSIT COMMISSION

	Position	Total \$
K. Paleczny	General Manager	5,527.95

LONDON POLICE SERVICES BOARD

	Position	Total \$
J. Pare	Chief of Police	5,381.74

LONDON CONVENTION CENTRE

	Position	Total \$
L. Da Silva	General Manager	4,895.27

LONDON PUBLIC LIBRARY

	Position	Total \$
S. Hubbard-Krimmer	Chief Executive Officer	787.00

2018

STATEMENT OF OUT-OF-TOWN TRAVEL AND EXPENSES FOR
SENIOR ADMINISTRATIVE OFFICIALS
CITY OF LONDON

	Position	Total \$
M. Hayward	City Manager	4,782.64
B. Coxhead	Managing Director Corporate Services & Chief Human Resources Officer	362.27
B. Card	Managing Director Corporate Services & City Solicitor	-
L. Hamer	Fire Chief	9,356.92
J. Kobarda	Fire Chief	1,125.10
A. Barbon	Managing Director Corporate Services & City Treasurer, Chief Financial Officer	2,455.63
G. Kotsifas	Managing Director Development & Compliance Services, Chief Building Official	2,215.46
K. Scherr	Managing Director Environmental & Engineering Services, City Engineer	7,087.91
J. Fleming	Managing Director Planning & City Planner	4,392.32
S. Datars-Bere	Managing Director Housing, Social Services & Dearness Home	5,274.38
L. Livingstone	Managing Director Neighbourhood, Children & Fire Services	919.55
S. Stafford	Managing Director Parks & Recreation	450.95

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	WILLIAM C. COXHEAD MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICE
SUBJECT:	PUBLIC SECTOR SALARY DISCLOSURE ACT REPORT FOR CALENDAR YEAR 2018

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and Chief Human Resources Officer, the following Report **BE RECEIVED** for information.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Report to Corporate Services Committee for its meeting held on March 20, 2018.

BACKGROUND

The Public Sector Salary Disclosure Act, 1996 (PSSDA) was enacted to assure the public disclosure of salary and benefits paid in respect to employment in the public sector. The PSSDA requires organizations in receipt of substantial Provincial funding to disclose the amount of salary and benefits paid to employees to whom the employer paid at least \$100,000 as salary. This reporting amount has remained at this level since instituted in 1996.

The filing with the Province discloses amounts paid to employees as salary and as taxable benefits who earned more than \$100,000 in 2018. An employee’s “salary” includes such amounts as salary paid in the calendar year and, if applicable, amounts paid for acting pay, overtime, retroactive payments, settlements or vacation. An employee’s “taxable benefits” includes amounts for items such as life insurance, parking, and vehicle allowances. The salary disclosure filing with the Province for Agencies, Boards & Commissions was submitted to the Ontario Ministry of Finance on March 7, 2019.

This summary Report, related to the filing with the Province, refers only to City Service Areas, Tourism London and the London Convention Centre. As it relates to these groups the filing with the Province includes:

- 306 employees who are members of the London Professional Fire Fighters Association;
- 178 Management employees;
- 2 employees who are members of London Civic Employees Local Union No. 107
- 4 employees who are members of Service Employees International Union Local 1 Canada
- 1 employee from Tourism London; and
- 2 employees from the London Convention Centre.

The salaries listed in the filing with the Province reflect 2018 salaries for all employee groups.

Acknowledgements

This Report was prepared with the assistance of Finance and Corporate Services.

PREPARED BY:	PREPARED BY :
JULIE KOVACS MANAGER, EMPLOYEE SYSTEMS	GARY BRIDGE MANAGER, HUMAN RESOURCES AND CORPORATE SERVICES
RECOMMENDED BY:	
WILLIAM C. COXHEAD MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICER	

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON March 19, 2019
FROM:	MARTIN HAYWARD, CITY MANAGER AND WILLIAM C. COXHEAD, MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICER
SUBJECT:	UPDATE #3 : HARASSMENT AND DISCRIMINATION- THIRD PARTY REVIEW – WORKPLACE ASSESSMENT AND RECOMMENDATIONS

RECOMMENDATION

That, on the recommendation of the City Manager and Managing Director, Corporate Services and Chief Human Resources Officer:

- a) this Report and the attached Workplace Assessment Report from Rubin Thomlinson LLP attached as Appendix A **BE RECEIVED** for information; and
- b) That the Civic Administration **BE DIRECTED** to immediately begin development of a “Respectful Workplace Policy” and associated resolution and complaint procedures and provide to the Corporate Services Committee a plan to respond to the balance of the recommendations in Rubin Thomlinson LLP’s Workplace Assessment within three months.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Update: Harassment and Discrimination - Third Party Review, June 19, 2018
Update #2 Harassment and Discrimination - Third Party Review, September 25 2018

BACKGROUND

On March 27, 2018 Council resolved that the City Manager BE REQUESTED to provide updates to the Corporate Services Committee regarding the harassment and discrimination policy and process review at the appropriate points in time. This is the third update following the reports provided in June and September of 2018.

Since March of 2018, the City Manager and the Chief Human Resources Officer have written to employees indicating our commitment to a workplace that is free from harassment and discrimination. To date, there have been 11 communications to employees providing them with information about the steps that were being taken, and inviting their participation in the process.

Rubin Thomlinson LLP has conducted an independent review and analysis of City policies and practices related to harassment and discrimination, including allegations of bullying, intimidation and /or reprisal in the workplace and has provided interim intake and investigation services for those who may be uncomfortable using the City’s current processes.

As previously reported, their work was focused in two key areas:

1. Conducting an intake of complaints and, where appropriate, conducting investigations of individual workplace harassment and/or discrimination allegations.
2. Conducting an independent assessment of the City of London’s program and practices relating to workplace harassment and discrimination. This included obtaining feedback in a variety of ways from employees about their experiences relating to the program and a top to bottom review of our policies.

The purpose of this report is to:

- Provide an update regarding the workplace assessment
- Provide the consultant's summary report of that assessment
- Share the consultant's recommendations for improvements

Workplace Assessment:

Rubin Thomlinson LLP has now completed a workplace assessment of the City of London's program relating to workplace harassment and discrimination. This assessment includes a review of the City of London's culture, practices, policies and procedures as they relate to workplace harassment, discrimination, bullying, intimidation and /or reprisal. The goal of this assessment was to identify any systemic issues and gaps that may exist and to provide their recommendations with respect to best practices to address any issues. Rubin Thomlinson's Workplace Assessment Summary Report dated March 7, 2019 is attached. The assessment provides details about how the review was conducted, information gathered, and what the consultant has recommended to improve our workplace and workplace culture.

This assessment is comprehensive and relies on what has been learned through the intake and investigation process and 779 completed surveys from existing and former employees. In addition, Rubin Thomlinson conducted a number of interviews with individuals based on one or more of the following:

- Their survey responses
- Individuals who expressed interest
- Individuals in a leadership role within the City or in the community
- Individuals who played a role in implementing the City's related policies.

Through this process, participants were given an opportunity to "speak to the topics that were of most concern to them." These have been organized by Rubin Thomlinson as follows:

- Experiences of harassment, discrimination, bullying, intimidation and /or reprisal
- Experiences of the City of London's internal complaint process
- Comfort with the City of London's internal complaint process
- Feedback on the City of London's policies and training programs
- Review of the City of London's policies

From this assessment, Rubin Tomlinson has provided a number of recommendations designed to achieve seven specific objectives:

- Improve employee understanding of complaint resolution options
- Clarify roles and duties within the internal complaint process
- Increase employee trust of the internal complaint process
- Improve employee satisfaction with the internal complaint process
- Enhance the skills of managers to perform their roles in addressing complaints
- Address employee fear of reprisal for raising complaints in the workplace
- Create accountability for actions taken in response to internal complaints

While the full recommendations are included in Appendix A, they can be summarized as follows:

1. **Simplify our policies** designed to address harassment, discrimination, bullying intimidation and /or reprisal and consider combining **them into a single easier to understand, plain language "Respectful Workplace Policy"** with a single process for raising concerns. Redraft the Resolution and Complaint procedures in the policy to provide clear and concise information to any individual seeking to raise a concern and receive support in order to have that concern resolved and /or investigated. Provide all necessary retraining to employees.
2. **Improve managerial competencies** to clearly define managerial roles, enhance and advance their training to be effective in taking the necessary steps when they observe or are made aware of behaviours that conflict with the policy and measure their performance accordingly. Set managers up for success in dealing with behaviour under the Policy. Ensure all managerial hiring processes consider a candidate's understanding of Policy issues in the selection process. When hiring for leadership positions, conduct a review of candidates to determine whether they have any substantiated complaints under the policy and how that might impact their suitability for the role. Managers should be asked to report to senior leaders on any policy –related issues identified

among their direct reports. Managers should be measured as part of their broader evaluation on their ability to recognize and respond to policy issues.

- 3. **Improve timeliness** to build trust in the process. Take steps to reduce the amount of time it takes to conduct investigations and clearly define timelines so that participants have clear expectations about the length of time each stage will take.
- 4. **Improve communications and accountability.** Ensure clear ownership and accountability for addressing employees concerns after they are raised. Ensure that every individual involved in the process has defined accountabilities and that roles are clearly communicated and understood. Communications between the accountable individual and the employee should occur on a weekly basis until the matter is resolved or investigation completed. Request feedback on the process at the conclusion from participants.
- 5. **Address fear of reprisal** by providing examples in the policy and ensure it forms part of the training. Ask questions about reprisal in intake meetings and investigative interviews. Conduct reprisal risk assessments and where risks are high and consider formal workplace restoration processes to address any risks. Perform follow up contacts with the parties following investigations at presubscribed intervals to inquire about their working conditions and ensure that reprisal is not occurring. Where allegations of retaliation are made, an investigation will be initiated immediately.
- 6. **Improve transparency** by providing clear and transparent communication to impacted employees at the conclusion of every formal and informal investigation that includes steps taken in the process, the findings, and rationale for investigative conclusions along with any related process outcomes. Commit to as detailed and transparent public reporting as possible of the types of complaints received from its employees and the manner in which those complaints were addressed under the policy.
- 7. **Establish a new role of “Ombudsperson”** reporting to the City Manager. The individual in this role would assist employees as they proceed through the complaint process, providing independent neutral advice and advocating for fair and transparent processes under the policy among other recommended duties tied to the policy.
- 8. Lastly, and in keeping with the transparency recommendation above, Rubin Thomlinson LLP recommends **that we publicly report the results of their review process and prepare and publicly share a written plan to respond to the recommendations within three months.** The City should solicit and consider feedback on the City’s plan from interested parties including but not limited to union leadership and community organizations. To keep employees informed about the progress, the City should provide periodic updates.

FINANCIAL IMPACT

Suitable sources of funding have been identified in the operating budget to support this work.

CONCLUSION

Rubin Thomlinson, as experts in the area of workplace harassment and discrimination, have been engaged to conduct investigations and carry out a third party review of the City of London’s workplace culture, policies and practices to assist the Corporation in building and sustaining a workplace that is free of harassment and discrimination, bullying, intimidation, and reprisal.

Rubin Thomlinson has provided a thorough assessment of the workplace and made a series of recommendations that Civic Administration believes are “clear and practical suggestions” that will support the City in addressing issues of harassment discrimination, bullying, intimidation and/or reprisal. We are committed to taking immediate steps to develop a proposed new “Respectful Workplace Policy” and associated procedures. We look forward to working with union leadership and interested parties in the development of a plan and completion of this work.

The City remains committed to providing a workplace that is free of harassment and discrimination. An important part of that is being transparent with our employees. We have provided an update to all of our employees, including copies of this report and Rubin Thomlinson’s Workplace Assessment Summary Report.

PREPARED AND RECOMMENDED BY:	RECOMMENDED BY:
WILLIAM C. COXHEAD MANAGING DIRECTOR, CORPORATE SERVICES AND CHIEF HUMAN RESOURCES OFFICER	MARTIN HAYWARD, CITY MANAGER

cc Rubin Thomlinson LLP

Summary Report to:

City of London

Per: Martin Hayward
City Manager

March 7, 2019

RE: Workplace Assessment

Prepared by:

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1. Introduction and Mandate

On April 23, 2018, Rubin Thomlinson LLP launched a process for the City of London (the “City”) to conduct investigations, an assessment and related services as a neutral third party. With respect to investigations, we were asked to receive complaints of harassment, discrimination, bullying, intimidation and/or reprisal by City employees and to conduct investigations of such complaints as appropriate and required in accordance with the City’s policies, the *Occupational Health and Safety Act* and the Ontario *Human Rights Code*.

In addition to the investigation processes, we were also asked to conduct an assessment of the City’s program relating to harassment, discrimination, bullying, intimidation and/or reprisal in the workplace and related issues. Unlike a workplace investigation, which focused on establishing facts on an objective basis, the general purpose of the assessment was to conduct a review of the City’s workplace culture, practices, policies and procedures as they relate to workplace harassment, discrimination, bullying, intimidation, and reprisal in order to identify any systemic issues, gaps that may exist, and to provide our recommendations with respect to best practices to address any such issues. This latter process is the subject of this report.

2. Conduct of the Workplace Assessment

Initially, we intended to launch the assessment process during the summer of 2018 through a survey sent to all employees. Based on feedback from union leadership, the decision was made to postpone the launch until after the summer in order to maximize employee participation. Ultimately, the survey was launched on September 5, 2018. The survey was sent out to just



over 3800 employees in two formats: a link to an online survey sent by email and a hard copy survey distributed to employees who worked in locations where employees had limited computer access. Former employees were also able to participate in the process, and did so. Employees were advised by Bill Coxhead, Managing Director of Corporate Services and Chief Human Resources Officer, as follows:

You have until October 3, 2018, to complete the survey, and can do so from any computer with an internet connection. Employees who do not have an email account will receive a hard copy survey in the next few days, and will have the option of either completing the survey by hand and sending it to Rubin Thomlinson in a pre-stamped envelope, or accessing it online.

Although completion of the survey is optional, this is a chance to have your voice heard and we encourage you to do so. Your responses in the survey are confidential and no information that you provide to Rubin Thomlinson LLP will be linked to you in their report. You will have the chance to share some information about yourself in the survey to assist in the review, but you can also participate anonymously should you prefer to do so.

Ultimately, 779 employees completed the survey.

Following the completion of the online survey, we conducted 35 interviews over several months with individuals who were identified based on their survey responses, expressed interest, leadership role with the City or in the community, or role in implementing the City's policies and procedures relating to harassment, discrimination, bullying, intimidation and/or reprisal. Among those selected on this basis were unionized and non-unionized employees, current and former employees, managers, union leadership, Human Resources employees, and members of the City's senior leadership. These interviews were in addition to the nearly 40 intake and

follow-up interviews that were conducted with individuals who had submitted complaints to the third-party investigation process. Again, those who participated were given assurances that the information they gave us was on a confidential basis, and it would be anonymized in this report.

In addition to the survey and interviews, we also reviewed a significant number of documents provided to us by participants, including written complaint histories, training materials, policies, organizational charts, and City website information.

At the conclusion of the process, we were satisfied that the content and volume of the information received provided us with valuable insights into the City's workplaces.

3. Information Gathered

In this section, we have included a summary of the information provided in the surveys and interviews. It is important to note that the information included in this report represents the subjective experiences of the individuals who participated. We have not tested the information, for example by sharing information as allegations or by seeking responses, and we have not made factual findings related to the concerns. The information included in this section represents the concerns of participants as they have chosen to express them. We have not attributed any information to a particular employee, nor have we presented employee experiences at a level of detail that might allow a particular individual to be identified as the source of the information.

A great deal of information provided by nearly 800 participants was reviewed as part of this process, and we have made great efforts to summarize that information and present it in a meaningful way in support of our recommendations. To assist in understanding the frequency with which issues or concerns were identified to us, in presenting the information in a summary fashion, we have used the following ranges to denote frequency of response: “one” (1 person), “some” (2-5 people), “several” (6-15 people), “many” (over 15 people). Where the number is significantly higher than 15 people, it is noted.

As noted above, we were provided with a broad mandate for the assessment process. Accordingly, in both the survey and during interviews, participants were given the opportunity to speak about the topics that were of most concern to them. In presenting their information in this report, to assist the reader we have organized the information into five sections: Experiences of Harassment, Discrimination, Bullying, Intimidation and Reprisal; Experiences of the City of London’s Internal Complaint Processes; Comfort with the City’s Internal Complaints Process; Feedback on the City of London’s Policies and Training Programs; and, Review of the City of London’s Policies and Training Programs.

a) Experiences of Harassment, Discrimination, Bullying, Intimidation, and Reprisal

Of the 779 current and former City employees who completed the survey, 383 said that they had experienced harassment, discrimination, bullying, intimidation, and/or reprisal in the workplace. 324 said that they had not, and 72 said that they did not wish to answer. Employees who said yes were then asked to describe their experiences, and 318 of the 383 employees responded, although 14 of those individuals said that they did not wish to

describe their experiences and 12 wrote “no”, “nothing”, or something similar. Therefore, we ultimately had 292 employees provide some information about their experiences of harassment, discrimination, bullying, intimidation, and/or reprisal.

i. Intimidation

The most commonly cited behaviour type was intimidation. Over 50 employees referenced, or described experiences of, intimidation and/or threats. This behaviour took a variety of forms, including both the tone and content of communication, and was said to come from managers, supervisors, co-workers, and elected officials. Threats were also said to come from co-workers in the context of interpersonal conflicts, and from managers in both the general manner that they “managed,” as well as specifically in the way that they addressed issues of performance. Several people said that they were threatened with the termination of their employment based on disagreements or conflicts with their supervisors/managers.

ii. Bullying and Harassment

There was a wide range of experiences that were identified as bullying and/or harassment by employees in the survey. Most common, from over 35 employees, were examples relating to communication, including inappropriate name-calling, demeaning language, yelling, and other derogatory comments. That said, we also heard examples of isolation and non-responsiveness that were said to create tension in the workplace. The source of the bullying and harassment was said to come from managers, supervisors, and co-workers primarily, with some references to behaviour by union leaders and elected officials as well. Some people also made reference to behaviour that was occurring on social media.

iii. Discrimination

Although discrimination was less commonly cited than other types of behaviours, many people made reference to gender-based comments or sexual harassment which can indicate the presence of discrimination. Some employees also wrote about past experiences of being sexually objectified, subjected to unwelcome touching, or experiencing unwelcome sexual advances.

We also heard some references to discrimination or harassment relating to race, disability (failure to accommodate), sexual orientation, creed, and age.

iv. Reprisal

While fear of reprisal was cited by some individuals who were reluctant to share their experiences in detail, several employees said that they had experienced actual reprisal in the past for having raised concerns in the workplace. For example, we heard about experiences of being singled out by a manager following a disagreement, being disciplined for sharing information under the City's Step Forward program, and some examples of being subjected to organized and long-term campaigns of reprisal, referred to as "paper(ing) a file." We also heard about meetings with management that were intimidating and disciplinary in nature, often occurring without any investigation into whether wrongdoing had in fact occurred. We note that several people we heard from, either in the survey or interviews, said that the situation within work areas where these issues were raised had improved under current leadership.

v. Management Style

Over 30 people provided examples of behaviour that they felt was inappropriate that related to the manner in which managers exercised their authority in the workplace. These included favouritism, micro-management, inconsistency, and targeting.

Some people noted in their surveys that they felt that some managers lacked the training and/or skills necessary to manage people, which contributed to a culture in which some of these behaviours were allowed to occur without being addressed.

Other issues that were raised included inconsistent internal communication during hiring decisions, such that an individual making hiring decisions might not be aware that an applicant has had findings made against them in the past, or is the current subject of an investigation. We also heard that managers are not currently measured on how they respond to issues of discrimination or harassment in the workplace, although it was noted that the competency process was in its infancy and that methodologies will be put in place.

That said, several people with whom we spoke noted an improved relationship between employees and managers at their work locations. We heard from leaders who spoke of a mandate of engagement, in which input from employees was sought and decisions were communicated back to employees, or about going into workplaces, engaging employees directly, and having an open door policy, as ways in which efforts were being made to improve trust between employees and management. We heard about

increased and improved communication between management and union leadership that was also said to be building trust in those relationships.

vi. Complaint Process

Lastly, and this will be addressed in more detail below, many people described their experience of being involved in a past complaint process as their example of behaviour that fell under the heading of harassment, discrimination, bullying, intimidation, or reprisal. Some of the examples provided in the survey included an interview that felt like an “attack”, feelings of fear and intimidation, insufficient sharing of outcomes, lack of fairness, disrespect after raising a concern, and retaliation.

We also heard from senior leaders who felt that they did not always have access to sufficient information to allow them to manage their workplaces and/or meet their other statutory obligations when a matter was being investigated formally.

When employees were asked to identify one thing that they would change about the City’s policies and procedures, a less intimidating and more supportive complaint process was cited by many respondents.

b) Experiences of the City of London’s Internal Complaint Processes

Employees who said that they had experienced harassment, discrimination, bullying, intimidation, or reprisal were asked if they made a complaint using the City’s process. 124 employees said yes, and 240 employees said no. Again, some chose not to answer. The number of employees who said that their concern was addressed after they complained was roughly similar

to the number of employees who said nothing was done, about 20% of respondents. Most of those who were satisfied said that they raised their concerns with their union, manager, or Human Resources and the matter was addressed, either informally or through a complaint process.

The remaining roughly 60% of employees noted that some action was taken, but identified several concerns with the process. We would note that when individuals wrote or spoke of their experiences of the formal investigation process, in many cases they did not specify who conducted the investigation. In some cases, they explicitly referenced that the investigation was conducted by an external third party. Therefore, throughout this report, feedback on the formal investigation process should be understood to be feedback on the process itself, and not on any specific individual.

The most commonly cited issue was a lack of follow-up at the conclusion of the process, something that was acknowledged as an issue by some employees who are tasked with addressing complaints. Many others said that they were dissatisfied with the outcome of the process, which typically meant that they did not feel the respondent to their complaint experienced sufficient consequences for their behaviour. Several employees expressed concerns that after raising issues of management behaviour that they considered improper, they were told some version of, “Management has the right to manage.” Other issues included managers discouraging formal complaints, a lack of support during the process (identified by both employees and managers), the investigation process taking too long, concerns about confidentiality, the lack of transparency about steps in the investigation process, and reprisal.

During interviews, we heard more detailed experiences of participating in a formal investigation process. One person said that the “journey was so exhausting,” and noted that they felt unsupported during the investigation and disappointed by its conclusions. Another individual who indicated that they experienced “appalling” verbal harassment said that they raised concerns to their manager and to Human Resources employees, and nothing came of it. They were unaware if any investigation was ever conducted and said that they felt unsupported and as though Human Resources did not have their back.

Some of those with whom we spoke noted a lack of clarity around whether someone who raised a concern internally is a complainant in an investigation, or a witness in a Corporation-initiated investigation into concerns that they raised. We heard that having the investigation proceed as a Corporation-initiated complaint meant that employees received little communication during and after the investigation process, including no clear communication as to whether each employee’s specific allegations had been substantiated.

During interviews with union leaders, we received fairly consistent feedback about the formal investigation process. We were told that some of their members feared reprisal and did not always trust that their complaints would be addressed. We also heard that the process took far too long, and that there was insufficient communication during the process. Again, the feedback was not specific to any individual employee who conducted the investigations, but generally related to the process itself.

Lastly, one issue that was raised on some occasions during interviews was the challenge that can occur following a formal investigation. Formal

workplace restoration or reintegration processes were said to be rare, with one union leader stating that the respondent might get a slap on the wrist, after which they were thrown back in the mix and expected to work together again. We also heard that the process to close off investigations was not always consistent.

c) Comfort with the City's Internal Complaints Process

In the survey, employees were asked:

If you were experiencing harassment, discrimination, bullying, intimidation, and/or reprisal in the workplace, would you feel comfortable raising a complaint using the City's process?

The answers were distributed as follows:

Not at all	188 (24.13%)
Slightly	144 (18.49%)
Moderately	223 (28.63%)
Very	176 (22.59%)
Extremely	48 (6.16%)

When asked why they responded the way that they did, 384 employees chose to respond, and those who had expressed comfort in using the complaint process often referenced clarity about the applicable policies, an understanding of the complaint process, a positive past experience, and/or trust in their current manager or the leaders within the organization.

That said, several people clarified their response to say that their comfort applied to circumstances where they had a complaint about another employee, and not a complaint about management.

Of those who expressed less comfort using the City's process, two reasons were most commonly cited as the reason why: a bad previous experience or

a fear of reprisal. Both were referenced over 50 times by employees. Regarding a bad previous experience, employees said that either nothing had been done when they previously made a complaint or that the outcome of a previous complaint had been unsatisfactory. For those who expressed fears of reprisal, some tied it to past personal experiences or things they had seen in the workplace, while other expressed more general concerns of vulnerability or risk.

Other reasons for discomfort cited by 20 or more employees included:

- Belief that a complaint would make no difference
- Lack of trust in management and/or Human Resources
- Lack of information about/understanding of the process
- Concerns about confidentiality and the sharing of information

Lastly, some people noted reputational concerns, a slow process, or a lack of support for managers who wish to complain. Several people noted that they believed that the situation was improving and that their comfort with the process was increasing.

Regarding the lack of trust noted in the second bullet above, several employees shared their perception that Human Resources takes the side of management over employees and would not be seen as impartial when an employee is complaining about a manager. Interestingly, we also heard from some managers who felt that they were unsupported when an employee made a complaint about them, particularly when allegations of harassment and/or discrimination are included in grievances and remain in place during an arbitration process, but never investigated.

When employees were asked to identify one thing that they would change about the City's policies and procedures to address harassment, discrimination, bullying, intimidation, and reprisal, just over 50 employees, nearly 10% of those who provided a response, made reference to an increase in access to third party processes to address complaints.

d) Feedback on the City of London's Policies and Training Programs

In the survey, employees were asked:

Are you familiar with the City of London's policies and procedures to address harassment, discrimination, bullying, intimidation and reprisal?

The answers were distributed as follows:

Not at all	23 (2.95%)
Slightly	116 (14.89%)
Moderately	298 (38.25%)
Very	280 (35.94%)
Extremely	62 (7.96%)

Several individuals with whom we spoke who are tasked with oversight and implementation of Human Resources policies noted that employees would benefit from clarity relating to the policies, specifically relating to where their concerns would go and how they would be addressed. Some spoke of the need for consistency across work locations in terms of these responses. We heard of the need for managers to be able to recognize the seriousness of issues being raised by employees, and to either address those issues informally or elevate when required to do so under the City's policies.

In the survey, employees were also asked:

How would you describe the City's training on its policies and procedures to address harassment, discrimination, bullying, intimidation and reprisal?

The answers were distributed as follows:

Poor	102 (13.13%)
Fair	200 (25.74%)
Good	266 (34.23%)
Very Good	148 (19.05%)
Extremely	57 (7.34%)

While several people spoke negatively about the current training sessions, calling it lip service, boring, or not taken seriously, many more people spoke very positively about the content and quality of the sessions and the availability of resources. Having reviewed the training materials utilized during the onboarding process, we note that they incorporate many best training practices, including in-person learning, interactive exercises, varied teaching styles, and practical applications of concepts.

When people did raise concerns about the available training, it was far more common for their feedback not to relate to the content of the training programs currently in place. For example, over 40 people took issue not with the training, but with the lack of follow-through that is said to occur when issues are raised in accordance with the training. Additionally, many people took issue with the fact that review or update sessions do not occur following the initial training sessions. When employees were asked to identify one thing that they would change about the City's policies and procedures to address harassment, discrimination, bullying, intimidation, and reprisal, changes to the training program and greater follow through from policy to actual practice were the two most commonly-cited responses.

One area of training identified by several participants, including employees, managers, union leaders and Human Resources employees, related to training for managers on how to address behavioural issues or interpersonal conflicts at the local level before they become more significant issues of harassment or bullying. Some people noted that managers lacked confidence to make decisions, because they feared that their decisions would be overturned or subjected to grievances. Some people noted that managers felt unsupported in these situations, with one employee commenting that managers felt that it was “open season” on them. Other non-managers said that they believed that many issues could be resolved if managers would manage a situation, but that they do not because they lack the necessary skills or do not believe that they have the authority to do so. We heard that managers are missing the necessary training to deal with things on the spot. Improved training for managers was also cited by many people as the one thing that they would change about the City’s policies and procedures to address harassment, discrimination, bullying, intimidation, and reprisal.

We heard that efforts have been made recently to include managers in decision-making and empower them to address minor issues at the local level.

We heard from some employees about a lack of clarity around the role of managers, Human Resources managers, the unions and Human Rights employees in the informal resolution process, as well as when to use such processes. We heard that while some behaviour clearly triggers an investigation and some behaviour clearly should not, there lacked a consistent approach about how to address alleged behaviour that, if true,

would be a “low-level” violation of the Code of Conduct. Based on our interviews, it was not always clear who would be the one to make this decision. Additionally, it was not always clear who could play the role of advisor to employees with concerns, recognizing the importance of investigator neutrality, should the matter ultimately need to be investigated.

Lastly, we were advised that limited tracking of complaints and complaint resolutions occurs currently within Human Rights, and that matters that were addressed by Human Resources managers or advisors would not necessarily be captured within this tracking.

e) Review of the City of London’s Policies

In addition to the survey and interviews conducted as part of this process, we were also asked to conduct a comparative review of the City’s policies relating to harassment, discrimination, bullying, intimidation, and reprisal.

We reviewed the following City policies using the lenses of internal consistency, potential efficiency improvements, and best practices:

- Code of Conduct for Employees (Last revised September 7, 2016)
- Code of Conduct for Members of Council (Passed August 22, 2017)
- Workplace Harassment and Discrimination Prevention Policy (Approved September 18, 2012)
- Workplace Violence Prevention (Last revised September 7, 2016)
- Use of Technology (Last revised July 2, 2013)
- Formal Investigation Process (Dated September 7, 2016)

In order to provide feedback on best practices in other municipalities, we reviewed publicly available comparable policies from: the City of Toronto, the City of Hamilton, the City of Mississauga, the City of Ottawa, the City of Vaughan, the Town of Oakville and the Town of Richmond Hill.

Based on this review, we made several observations:

i. Separation of Code-Related Harassment and Personal Harassment

The City's Workplace Harassment and Discrimination Prevention Policy applies only to harassment on the basis of the prohibited grounds outlined in the Ontario Human Rights Code (i.e. Code-related harassment). Other forms of harassment are included under the heading "Prohibited Behaviour" in the Code of Conduct for Employees. The placement of personal harassment could lead to confusion, as employees are more likely to consult the Workplace Harassment and Discrimination Prevention Policy for information on how to make a complaint about harassment. This could lead to the impression that the City only takes complaints about harassment on Code-related grounds.

ii. The definition of "workplace"

The Workplace Harassment and Discrimination Prevention Policy defines "Workplace" as:

All of the Corporation's facilities and work sites, including vehicles and any other land, premises, locations or things at, upon, in or near where the business of the Corporation is being conducted. Included in this definition are Corporate-related activities, including Corporation-sanctioned social functions, or business performed at any other locations away from the Corporations facilities, during or outside of normal working hours.

Putting emphasis in the policy on the work-related impact of behaviour, rather than the location, is consistent with other municipalities, and also applicable case law, which has found that when considering whether harassment has occurred in the workplace, the focus should be on the adverse job-related consequences for the alleged victim of the harassment, rather than on the physical location in which the behaviour took place.

iii. Single incidents of Harassment

Both the Code of Conduct for Employees and the Workplace Harassment and Discrimination Prevention Policy define harassment as a “course of vexatious conduct.” While this is consistent with the definitions in the Human Rights Code and Occupational Health and Safety Act, the Ontario Human Rights Tribunal has found that a single incident, if sufficiently serious, can amount to “harassment” for the purpose of the Human Rights Code. Because the term “course of conduct” implies that more than one incident is necessary in order to establish harassment, many policies specifically state that one serious incident is also included in the definition.

iv. Definition of Poisoned Work Environment

The City’s policies currently do not include a definition of “poisoned work environment.” Addressing “poisoned work environment” in the City’s policies would be helpful to cover situations in which staff members who witness problematic conduct are impacted, even if they are not the target of the conduct.

v. Interactions between Council members and staff

The Workplace Harassment and Discrimination Prevention Policy specifically states that it applies to members of Council. Personal harassment, as noted above, is covered under the Code of Conduct for Employees, and there is no mention of council members in that Code.

Rule 7 and 8 of the Council Code of Conduct make it clear that Council members must treat staff with respect and not subject them to bullying or intimidation. The Code of Conduct for Council Members also states that the Workplace Harassment and Discrimination Prevention Policy and the Workplace Violence Prevention Policy apply to the actions of Council, where applicable.

vi. Other comments

- The section entitled “What is not Harassment” in the Workplace Harassment and Discrimination Prevention Policy states that harassment does not include the performance of management functions, omitting the word “reasonable” which is included in the *Occupational Health and Safety Act*, which states: A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment (s. 1(4)).
- The City’s policies do not include definitions of the following terms: complainant, respondent, frivolous, and vexatious.
- Unlike the City’s policies, many other municipal policies specifically state that workplace harassment does not include occasional disagreements or personality conflicts between co-workers.

4. Recommendations

In preparing these recommendations, our intention is to provide the City with clear direction and practical suggestions to improve the manner in which it addresses issues of harassment, discrimination, bullying, intimidation and/or reprisal.

It would not have been possible to provide a recommendation to address each and every concern identified by an employee during this process, and

so we have instead provided recommendations relating to some of the more commonly cited issues, or to issues where we believed that changes made by the City could have the greatest impact. Nothing prevents the City from taking additional actions based on information summarized in this report. The recommendations are informed by employee suggestions and feedback, our experiences as specialists in investigation and anti-harassment work, legislation, jurisprudence, and best practices.

The recommendations are designed to achieve seven specific objectives:

1. Improving employee understanding of complaint resolution options
2. Clarifying roles and duties within the internal complaint process
3. Increasing employee trust of the internal complaint process
4. Improving employee satisfaction with the internal complaint process
5. Enhancing the skills of managers to perform their roles in addressing complaints
6. Addressing employee fear of reprisal for raising complaints in the workplace
7. Creating accountability for actions taken in response to internal complaints

Recommendation 1 – Share process results

We recommend that this report be shared publicly and that a written plan to respond to the recommendations in the report be prepared by the City within three months and also shared publicly. The City should solicit and consider feedback on its plan from interested parties, including, but not limited to, union leadership and community organizations. The City should commit to providing periodic updates to its employees on its implementation of the plan.

Recommendation 2 – Internal Policies

Based on our review of the City’s policies, as well as feedback received from the interviews and completed surveys, we recommend that the City simplify its policies designed to address harassment, discrimination, bullying, harassment, and reprisal in the workplace. To this end, consideration should be given to combining the policies reviewed in this report into a single Respectful Workplace Policy (“Policy”) with a single process for raising concerns. Given the specific organizational expectations relating to violence contained in the Occupational Health and Safety Act, the City may choose to retain a standalone policy on that topic, but the related complaint resolution processes should align where possible.

In combining the policies, the City should also add content to the Policy addressing some of the observations made above, relating to:

- Definition of workplace
- Single incidents
- Poisoned work environment
- “Reasonable” action taken
- Occasional disagreements or personality conflicts between co-workers
- Definitions of complainant, respondent, frivolous, and vexatious
- Application to elected officials and committee members

Lastly, the Resolution/Complaint Procedures in the Policy should be re-drafted to provide clear and concise information to any individual seeking to raise a concern and receive support in order to have it resolved and/or investigated. The Policy should, in plain language, make clear to the employee what they can expect if they raise a concern under the policy. The Policy should also make clear the options for support available to each type of employee (eg, union representative, support person, management colleague, etc.). Additionally, the Policy should clearly articulate the specific

actions to be taken by a manager when they receive a complaint or information about an incident which, if true, would indicate a violation of the Policy.

As with all policy changes, such revisions should trigger training for all existing City employees relating to their rights and responsibilities under the Policy, and should continue to form part of the onboarding process.

Recommendation 3 –Ombudsperson

We recommend that the City establish a new role of Ombudsperson with a mandate tied to the contents of the revised policy. We recommend that this position be independent and neutral, and report directly to the City Manager.

The Ombudsperson could act as a confidential resource for employees who wish to ask questions in confidence about the Policy and any related processes. The Ombudsperson would not conduct investigations into complaints under the Policy, but could assist employees as they proceed through the complaint process and advocate for fair and transparent processes under the Policy. The Ombudsperson could review complaints from employees related to any processes undertaken by City employees under the Policy and make recommendations to improve those processes. Lastly, the Ombudsperson could provide an annual report to the City Manager about their interactions with employees related to the Policy and identify related themes and potential options for action and improvement.

By creating such a role, the City would provide clarity to employees about where they could go for independent advice and also provide them with an opportunity to raise concerns about the fairness or efficacy of City

processes. We considered the suggestions of some participants of a neutral, external body to provide third-party oversight of the investigation process, and believe that this recommendation meets the underlying goals of those suggestions in a manner that better aligns with the obligations of the City related to privacy. We also considered the possibility of moving the Human Rights Office outside of Human Resources to address concerns about the relationship between Human Resources and management, but determined that the real impact of such a move could be limited and might undermine the flow of information for which we advocate in Recommendation 4.

Recommendation 4 – Managerial Competencies

We heard from a variety of individuals about the challenges facing managers regarding their roles in addressing complaints, as well as the potential issues that arise when managers do not meet the expectations of their role. Accordingly, we recommend that managers have a clearly defined role within the Policy, and continue to receive training relating to the steps they should take when they observe, or are made aware of, behaviour that conflicts with the Policy. In addition, advanced training sessions should be developed and offered to managers periodically to assist them with taking the necessary steps. For example, sessions on providing critical feedback and facilitating difficult conversations could be helpful for managers. Managers should be surveyed immediately following any new session to determine whether they understood the key concepts, and again three months following the session to determine whether they have been able to incorporate the session learnings into their management practice.

Additional steps should be taken to ensure that managers are set up for success in dealing with behaviour under the Policy. First, for all managerial hiring processes, applicants should be asked to provide an example from

their past that demonstrates their understanding of Policy issues and appropriate responses. Second, prior to hiring someone into a leadership position, a review should be conducted to determine whether they have been the subject of any substantiated complaint under the Policy and how that might impact their suitability for the role. Third, managers should be asked to report periodically to their Directors on any Policy-related issues identified among their direct reports. Fourth, managers should be measured as part of their broader evaluation on their ability to recognize and respond to Policy issues.

Recommendation 5 - Timelines

We heard consistent feedback that formal investigations conducted under the current policies take too long. In order to build trust in the process, we recommend that timelines be built into the revised policy. Specifically, the Policy should contain timelines by which:

- An intake meeting will be scheduled once a concern is raised
- An investigation will commence post-intake
- An investigation will be completed.

We recognize that there are times when, despite the investigator's best efforts, timelines cannot be met, for example due to issues with the availability of one or both of the parties. The timelines within the Policy could be noted to depend on a lack of extenuating circumstances. In cases where there are extenuating circumstances, the timelines will function as a reminder to the investigator to check-in with both parties and update them on the status of the investigation and the estimated length of any delay. The City should consider, particularly in light of the investigation process recommendations contained in this report, whether it is necessary to hire a second individual in an Intake Administrator role in order to meet these

timelines. In Recommendation 8, we recommend a tool to measure whether the City is meeting its timeline obligations.

Recommendation 6 –Communication

We heard that employees were frustrated by the level of communication that they received after they raised a concern. We believe that the lack of communication, at times, likely results from the lack of clear ownership of a concern after it has been raised. Following the revisions to the Policy, it is essential that there is clear communication to managers, Human Resources Service Partners, and Human Rights employees relating to their roles under the Policy. Additionally, any employee who raises a concern should know who is accountable for addressing their concern at all times. Regular communication during any subsequent process (informal resolution, mediation, investigation) should occur between the accountable individual and the employee. We recommend that communication in the form of process updates be provided on a weekly basis until the matter is resolved or the investigation is completed.

In order to measure whether employees are satisfied with the level of communication received during a formal investigation process, we recommend that employees be requested by Human Rights employees to provide written feedback on the experience of the process following its conclusion. Such feedback could be provided by email, an online survey, or a hard copy feedback form.

Recommendation 7 - Addressing Fear of Reprisal

Given the significant level of fear of reprisal identified by participants in this process, it is essential that the City take proactive steps to address this fear. Examples of reprisal could be noted in the Policy and continue to form

part of the training that occurs relating to the Policy. In addition, questions about reprisal should be included in any complaint intake meeting, as well as any interview conducted as part of an investigation process.

In addition, we recommend that the City take specific, formalized steps following an investigation designed to restore the workplace relationships and protect against retaliatory actions. Following every investigation, the City should assess the risk of reprisal based on information that was gathered during the investigation process. Where the risk is high, the City should consider whether a formal restoration could address the risk and, if so, engage in such a process. The process could be conducted by City staff, or using an external third party.

Whether or not a formal restoration process is conducted, we recommend that Human Rights employees contact the parties to every investigation at two separate intervals following an investigation (two weeks and three months) to inquire about their working conditions and ensure that reprisal is not occurring. Where allegations of reprisal are raised, an investigation should be initiated immediately. Where risk factors are identified, consideration should be given at that stage to whether a formal restoration process would be appropriate.

Recommendation 8 – Transparency

In addition to communicating with the parties during the investigation process, as outline above, it is important that clear and transparent communication occur at the conclusion of every investigation, whether it be an informal inquiry by a manager or Human Resources Service Partner, or a more formal investigation conducted by Human Rights employees under the Policy. Parties should be advised, at minimum, of the steps taken, the

process steps, the findings of the investigation, and any process outcomes relating to the individual. Based on the feedback we heard about dissatisfaction with process outcomes, while acknowledging that privacy obligations exist under the *Municipal Freedom of Information and Protection of Privacy Act*, as much information as possible should be shared with the parties to any complaint about the rationale for any of the investigation conclusions.

In addition to transparency with the individuals, however, we also recommend that the City commit to detailed and transparent public reporting on the types of complaints that it receives from its employees under the Policy and the manner in which those complaints are addressed. Currently, many employees are sceptical of the process and whether or not bringing a complaint can bring real change. Detailed reporting on what the City has done with past complaints could help address that scepticism.

Possible categories on which the City could report include:

- What type of allegations? (eg, harassment, sexual harassment, discrimination based on sex, etc)
- Were there allegations of reprisal?
- Service area of complaint
- Process used (eg, informal discussion, mediation, investigation, etc)
- Duration of process (ie, were timelines met?)
- Resolution type (mediated agreement, allegations substantiated by investigation, etc.)

The report should be sufficiently general so as not to identify any personal information, while also being sufficiently specific about the City's response to provide a snapshot of the effectiveness of the City's program to address harassment, discrimination, bullying, intimidation and reprisal.



To be complete, where possible this reporting should include actions taken by managers or Human Resources Service Partners, as well as Human Rights employees.

Throughout the assessment process, we were appreciative of the willingness of individuals to participate candidly in the survey and interviews, and share their experiences with us. We recognize that to do so was difficult for some employees because of the emotions such participation surfaced, and because of their expressed concerns about reprisal. It is our hope that this report, and the recommendations contained herein, will assist the City to move forward and make improvements to its policies and procedures, in a manner that makes each individual's participation feel valued and worthwhile.

Date: March 7, 2019

A handwritten signature in blue ink, appearing to be 'Cory Boyd', is written above a horizontal line.

Per: Cory Boyd
RUBIN THOMLINSON LLP

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	ARGYLE BUSINESS IMPROVEMENT AREA 2019 PROPOSED BUDGET – MUNICIPAL SPECIAL LEVY

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the Argyle Business Improvement Area:

- a. The Argyle Business Improvement Area proposed 2019 budget submission in the amount of \$259,502 **BE APPROVED** as outlined in Schedule “A”;
- b. The amount to be raised by The Corporation of the City of London for the 2019 fiscal year for the purposes of the Argyle Business Improvement Area and pursuant to subsection 208(1) of the Municipal Act, 2001 **BE FIXED** at \$215,000;
- c. A special charge **BE ESTABLISHED** for the amount referred to in part b, above, by a levy in accordance with By-law A.-6873-292 as amended; it being noted that the special charge shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the Municipal Act, 2001; and
- d. The attached by-law (see Schedule “B”) with respect to Municipal Special Levy for the Argyle Business Improvement Area **BE INTRODUCED** at the Municipal Council meeting on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Corporate Services Committee, March 20, 2018, Agenda item 2.3, Argyle Business Improvement Area 2018 Proposed Budget – Municipal Special Levy
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=39743>

LINK TO STRATEGIC PLAN

Council’s 2015-2019 Strategic Plan for the City of London identifies “Growing Our Economy” and “Leading in Public Service” as strategic areas of focus. These areas include “Strategic, collaborative partnerships” and “Collaborative, engaged leadership” as strategic priorities. These priorities involve working better together for economic growth with Business Improvement Areas and continuing to build strong working relationships with such community partners. In line with these strategies, the City provides guidance to the Business Improvement Areas of London in regards to establishment and ongoing business and financial operations. The City also acts as the intermediary with respect to collecting the approved levy amounts which fund services provided to the Business Improvement Area members and thus promote continued growth in London’s economy.

BACKGROUND

On November 8, 2018, the Board of Management of the Argyle Business Improvement Area (ABIA) approved the 2019 budget (Schedule “A”) and presented the budget to the members at the Annual General Meeting.

Under subsection 205(2) of the Municipal Act, 2001, a business improvement area (BIA) must submit an annual budget to Council that Council may approve in whole or in part, but may not add expenditures. The ABIA has met this requirement in Schedule “A”, noting the 2019 total expenditure budget of \$259,502.

Civic Administration provides the following comments based on its review of the submission:

- a) The ABIA submitted a 2019 budget of \$259,502, which represents an increase of \$49,582 (23.6%) compared to its 2018 budget of \$209,920. The total increase in revenue is a result of the following:
 - i. The Municipal Special Levy will increase by \$28,280 (15.1%) from \$186,720 to \$215,000. The increase in the levy is to help cover the cost of full-time staff members in addition to a contract position.

- ii. The Draw from Operating Fund will increase to cover the costs of some of the planned projects in 2019.
 - iii. A new budget amount for Government Student Funding under the Canada Summer Jobs program administered by Service Canada.
 - iv. A new budget amount for HST Rebate as the amount filed in 2018 accounted for four years' worth of rebates and a rebate is expected to be received annually going forward.
- b) Significant changes to expenditures in 2019 include:
- i. Salaries and Wages and Student Wages and Benefits - increased budget to cover the cost of two full-time staff. Also, an amount is budgeted for two summer students to be funded from the Canada Summer Jobs program administered by Service Canada.
 - ii. Furniture - no amount budgeted for 2019 as future costs of this nature will be reflected in the Office Supplies budget.
 - iii. Office Rent and Office Supplies - expense has increased due to an office expansion in the spring of 2018 requiring additional office equipment in 2019.
 - iv. Summer Event, Annual General Meeting and Special Events - separate amounts are budgeted for the annual summer event held for the BIA members and the community and the annual general meeting that is held at the end of each year; these expenses were budgeted under Special Events in the past but are now segregated.
 - v. Planters/Hanging Basket Program - increased the budget to cover the costs of larger hanging baskets and better quality flowers to withstand varying weather conditions.
 - vi. Long-term Initiatives - a significant amount is budgeted for long-term initiatives to cover the costs of some of the following planned projects:
 - Coloured sidewalks
 - Benches to be placed along Dundas Street
 - Update the designs of banners
 - Kiwanis Park beautification project

At the time of submitting this report, the audited 2018 financial statements were unavailable. Estimates received from the ABIA indicated that there was a year-end surplus of \$25,402 in 2018. There was no accumulated funding in the Operating Fund or Reserve Fund as at December 31, 2018.

The owners of business property within the BIA will be responsible for payment of \$215,000 to be raised by the Corporation for the 2019 fiscal year for the purposes of ABIA and pursuant to subsection 208(1) of the Municipal Act, 2001. Upon Council approval, the City of London will pay ABIA the budgeted Municipal Special Levy amount.

Under subsection 207(1) of the Municipal Act, 2001, a business improvement area must submit to Council its audited annual financial report for the preceding year. The ABIA meets this requirement each year through the City of London's Annual Financial Report.

PREPARED BY:	REVIEWED BY:
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KYLE MURRAY, CPA, CA DIRECTOR FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Argyle Business Improvement Area
2019 Proposed Budget
with 2018 Comparators

Revenue Overview

Argyle Revenue Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Rev	Increase / (Decrease) over 2018
Municipal Special Levy	186,720	186,720	-	215,000		28,280
Net Municipal Special Levy	186,720	186,720	-	215,000		28,280
Interest Revenue	100	192	92	100		-
Draw from Operating Fund	19,100	-	(19,100)	25,402		6,302
Government Student Funding	-	10,004	10,004	10,000		10,000
Miscellaneous	4,000	4,849	849	4,000		-
HST Rebate		17,742	17,742	5,000		5,000
Total Argyle Revenue	209,920	219,507	9,587	259,502	100%	49,582

Expenditure Overview

Argyle Expenditure Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Exp	Increase / (Decrease) over 2018
ADMINISTRATION						
Salaries and Wages	70,000	84,283	(14,283)	80,000		10,000
Student Wages and Benefits	-	8,092	(8,092)	10,000		10,000
EI and CPP	4,000	-	4,000	4,000		-
Bookkeeping, Audit and Professional Fees	8,000	5,601	2,399	9,000		1,000
Utilities	1,700	1,561	139	2,000		300
Telephone and Fax and Internet	1,700	1,129	571	2,000		300
Insurance	2,000	1,658	342	2,000		-
Repairs and Maintenance	1,500	8,788	(7,288)	4,000		2,500
Furniture	8,000	7,788	212			(8,000)
Travel and Transportation	500	35	465	500		-
Bank Charges	120	875	(755)	120		-
Memberships - Provincial BIA	400	443	(43)	400		-
Office Supplies	5,500	10,777	(5,277)	8,500		3,000
Postage and Courier	500	231	269	1,000		500
Signage/Banner Brackets	1,000	990	10	2,500		1,500
Professional Development (Conference)	4,000	1,277	2,723	4,000		-
Website Maintenance and Domain	1,000	395	605	1,000		-
Total Administration	109,920	133,923	(24,003)	131,020	50.5%	21,100
RENT						
Office Rent	17,500	15,121	2,379	22,000		4,500
Total Rent	17,500	15,121	2,379	22,000	8.5%	4,500
MEMBER SERVICES						
Special Events	15,000	988	14,012			(15,000)
Quarterly Newsletter	500	-	500	-		(500)
Total Member Services	15,500	988	14,512	-	0.0%	(15,500)
BUSINESS DEVELOPMENT						
Annual General Meeting			-	5,000		5,000
Summer Event			-	5,000		5,000
Marketing and Consulting	10,000	5,273	4,727	13,180		3,180
Other Program Initiatives/ Santa Clause Parade	30,000	25,743	4,257	30,000		-
Planters/Hanging Basket Program	15,000	10,468	4,532	20,000		5,000
Total Business Development	55,000	41,484	13,516	73,180	28.2%	18,180
HST	2,000	519	1,481	2,000		-
Tax Write Offs/ Business Appeals	10,000	2,070	7,930	10,000		-
Long-term Initiatives	-		-	21,302		21,302
Total Other	12,000	2,589	9,411	33,302	12.8%	21,302
Total Argyle Expenditure	209,920	194,105	15,815	259,502	100.0%	49,582
Net Surplus / (Deficit)	-	25,402	25,402	-		
Draw from/(Contribution to) Operating Fund	-	(25,402)	(25,402)	-		
Net	\$ -	\$ -	\$ -	\$ -		

All figures subject to audit.
All figures subject to rounding.

Bill No.
2019

By-law No.

A by-law to raise the amount required for the purposes of the Argyle Business Improvement Area Board of Management for the year 2019 in accordance with section 208 of the *Municipal Act, 2001*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* as amended provides that a municipality may pass by-law respecting; the financial management of the municipality (paragraph 3) and services or things that the municipality is authorized to provide under subsection 10(1) (paragraph 7);

AND WHEREAS By-law A.-6873-292, as amended, provides for an improvement area to be known as the Argyle Business Improvement Area and establishes a Board of Management for it known as the Argyle Business Improvement Area Board of Management;

AND WHEREAS subsection 208(1) of the *Municipal Act, 2001* provides that the municipality shall annually raise the amount required for the purposes of the board of management (of a business improvement area);

AND WHEREAS section 23 of the *Municipal Act, 2001* provides that without limiting sections 9, 10 and 11 those sections authorize a municipality to delegate its powers under the *Municipal Act, 2001*;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That the budget for the 2019 fiscal year submitted by the Argyle Business Improvement Area Board of Management attached as Schedule “A” is approved.
2. The amount to be raised by the Corporation for the 2019 fiscal year for the purposes of The Argyle Business Improvement Area Board of Management and pursuant to subsection 208(1) of the *Municipal Act, 2001* is \$215,000.
3. A special charge is established for the amount referred to in section 2 of this by-law by a levy in accordance with By-law A.-6873-292, as amended.
4. The special charge referred to in section 3 of this by-law shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the *Municipal Act, 2001*.

5. The administration of this by-law is delegated to the City Treasurer who is hereby authorized and directed to do such things as may be necessary or advisable to carry out fully the provisions of this by-law.

6. This by-law comes into force and effect on the day it is passed.

Ed Holder,
Mayor

Catharine Saunders,
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	HAMILTON ROAD BUSINESS IMPROVEMENT AREA 2019 PROPOSED BUDGET – MUNICIPAL SPECIAL LEVY

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the Hamilton Road Business Improvement Area:

- a. The Hamilton Road Business Improvement Area proposed 2019 budget submission in the amount of \$140,525 **BE APPROVED** as outlined in Schedule “A”;
- b. The amount to be raised by The Corporation of the City of London for the 2019 fiscal year for the purposes of the Hamilton Road Business Improvement Area and pursuant to subsection 208(1) of the Municipal Act, 2001 **BE FIXED** at \$70,000;
- c. A special charge **BE ESTABLISHED** for the amount referred to in part b, above, by a levy in accordance with By-law C.P.-1528-486 as amended; it being noted that the special charge shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the Municipal Act, 2001; and
- d. The attached by-law (see Schedule “B”) with respect to Municipal Special Levy for the Hamilton Road Business Improvement Area **BE INTRODUCED** at the Municipal Council meeting on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Planning and Environment Committee, September 24, 2018, Agenda item 2.7, Designation of an Improvement Area under Section 204 of the *Municipal Act, 2001* – Hamilton Road BIA.
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=50675>

Planning and Environment Committee, May 14, 2018, Agenda item 4.3, Hamilton Road Business Improvement Area (BIA) Authorization to Initiate Creation
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=44515>

LINK TO STRATEGIC PLAN

Council’s 2015-2019 Strategic Plan for the City of London identifies “Growing Our Economy” and “Leading in Public Service” as strategic areas of focus. These areas include “Strategic, collaborative partnerships” and “Collaborative, engaged leadership” as strategic priorities. These priorities involve working better together for economic growth with Business Improvement Areas and continuing to build strong working relationships with such community partners. In line with these strategies, the City provides guidance to the Business Improvement Areas of London in regards to establishment and ongoing business and financial operations. The City also acts as the intermediary with respect to collecting the approved levy amounts which fund services provided to the Business Improvement Area members and thus promote continued growth in London’s economy.

BACKGROUND

On January 23, 2019, the Board of Management of the Hamilton Road Business Improvement Area (HRBIA) approved the 2019 budget (Schedule “A”) and presented the budget to the members at the Annual General Meeting.

Under subsection 205(2) of the Municipal Act, 2001, a business improvement area must submit an annual budget to Council that Council may approve in whole or in part, but may not add expenditures. The HRBIA has met this requirement in Schedule “A”, noting the 2019 expenditure budget of \$140,525.

Civic Administration provides the following comments based on its review of the submission:

- a) This is the first year of submission for the HRBIA, therefore there are no prior year budget comparators;
- b) HRBIA revenue includes the Municipal Special Levy of \$70,000 and the one-time contribution of \$50,000 approved by Council on February 12, 2019;
- c) HRBIA plans to use this one-time contribution towards short-term and long-term initiatives. Some of the planned initiatives include the following:
 - i. Taste of Hamilton Road/Flexstreet (beautification initiatives)
 - ii. Networking/Open House (with BIA members and the community)
 - iii. Graffiti removal project
 - iv. Creation of website and technical support
 - v. Christmas decoration contest
 - vi. Tree Trunk Tour selfie contest
 - vii. Hanging flower pots
 - viii. Festival entry fees
 - ix. Trade show booth and signs
- d) Significant expenditures in 2019 include administrative salaries and wages, rent, training/conferences and expenses related to special events and projects. Such expenditures are in line with standard business improvement area operational costs and community projects/initiatives.

The owners of business property within the business improvement area will be responsible for payment of \$70,000 to be raised by the Corporation for the 2019 fiscal year for the purposes of HRBIA and pursuant to subsection 208(1) of the Municipal Act, 2001. Upon Council approval, the City of London will pay HRBIA the budgeted Municipal Special Levy amount.

Under subsection 207(1) of the Municipal Act, 2001, a business improvement area must submit to Council its audited annual financial report for the preceding year. 2019 is HRBIA's first year of operations, therefore, a financial report for 2018 is not available.

PREPARED BY:	REVIEWED BY:
ZEINA NSAIR, CPA, CGA MANAGER, FINANCIAL MODELLING, FORECASTING AND SYSTEMS CONTROL FINANCIAL PLANNING & POLICY	ALAN DUNBAR, CPA, CGA MANAGER FINANCIAL PLANNING & POLICY
SUBMITTED BY:	RECOMMENDED BY:
KYLE MURRAY, CPA, CA DIRECTOR FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Hamilton Road Business Improvement Area Template
2019 Proposed Budget
with 2018 Comparators

Revenue Overview

Revenue Detail:	2018 Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	Increase / (Decrease) over 2018
Municipal Special Levy			-	70,000	70,000
Net Municipal Special Levy	-	-	-	70,000	70,000
Special Allowance Granted by Council			-	50,000	50,000
Government Student Funding			-	18,025	18,025
Administrative Fees			-	2,500	2,500
Total Hamilton Road Revenue	-	-	-	140,525	140,525

Expenditure Overview

Expenditure Detail:	2018 Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	Increase / (Decrease) over 2018
ADMINISTRATION					
Admin Salaries and Wages			-	40,800	40,800
Payroll, EI and CPP			-	2,805	2,805
Summer Jobs			-	17,000	17,000
Payroll, EI and CPP (Summer Jobs)			-	1,025	1,025
Telephone and Fax and Internet			-	1,500	1,500
Supplies			-	1,200	1,200
Printing			-	1,800	1,800
Insurance			-	1,000	1,000
Training/Conference			-	3,000	3,000
Mileage Expenses			-	550	550
Postage and Courier			-	600	600
Bank Charges			-	300	300
Total Administration				71,580	71,580
RENT					
Rent			-	7,200	7,200
Total Rent				7,200	7,200
BUSINESS DEVELOPMENT					
Website Maintenance and Domain			-	850	850
Signage and Permits			-	645	645
Marketing			-	1,200	1,200
Public Art Maintenance			-	1,100	1,100
Special Events/Projects			-	6,300	6,300
Long & Short-term Initiatives			-	50,000	50,000
Total Business Development				60,095	60,095
MEMBER SERVICES					
CRM/Membership Services			-	800	800
AGM			-	500	500
Memberships - Provincial BIA			-	350	350
Total Member Services				1,650	1,650
HST			-		-
Total Hamilton Road Expenditure	-	-	-	140,525	140,525
Net Surplus / (Deficit)	-	-	-	-	
Draw from/(Contribution to) Operating Fund	-	-	-	-	
Net	-	-	-	-	

All figures subject to audit.

All figures subject to rounding.

Bill No.
2019

By-law No.

A by-law to raise the amount required for the purposes of the Hamilton Road Business Improvement Area Board of Management for the year 2019 in accordance with section 208 of the *Municipal Act, 2001*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* as amended provides that a municipality may pass by-law respecting; the financial management of the municipality (paragraph 3) and services or things that the municipality is authorized to provide under subsection 10(1) (paragraph 7);

AND WHEREAS By-law CP-1528-486, as amended, provides for an improvement area to be known as the Hamilton Road Business Improvement Area and establishes a Board of Management for it known as the Hamilton Road Business Improvement Area Board of Management;

AND WHEREAS subsection 208(1) of the *Municipal Act, 2001* provides that the municipality shall annually raise the amount required for the purposes of the board of management (of a business improvement area);

AND WHEREAS section 23 of the *Municipal Act, 2001* provides that without limiting sections 9, 10 and 11 those sections authorize a municipality to delegate its powers under the *Municipal Act, 2001*;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That the budget for the 2019 fiscal year submitted by the Hamilton Road Business Improvement Area Board of Management attached as Schedule “A” is approved.
2. The amount to be raised by the Corporation for the 2019 fiscal year for the purposes of the Hamilton Road Business Improvement Area Board of Management and pursuant to subsection 208(1) of the *Municipal Act, 2001* is \$70,000.
3. A special charge is established for the amount referred to in section 2 of this by-law by a levy in accordance with By-law CP-1528-486, as amended.
4. The special charge referred to in section 3 of this by-law shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the *Municipal Act, 2001*.

5. The administration of this by-law is delegated to the City Treasurer who is hereby authorized and directed to do such things as may be necessary or advisable to carry out fully the provisions of this by-law.
6. This by-law comes into force and effect on the day it is passed.

Ed Holder,
Mayor

Catharine Saunders,
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	HYDE PARK BUSINESS IMPROVEMENT AREA 2019 PROPOSED BUDGET – MUNICIPAL SPECIAL LEVY

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the Hyde Park Business Improvement Area:

- The Hyde Park Business Improvement Area proposed 2019 budget submission in the amount of \$361,200 **BE APPROVED** as outlined in Schedule “A”;
- The amount to be raised by The Corporation of the City of London for the 2019 fiscal year for the purposes of the Hyde Park Business Improvement Area and pursuant to subsection 208(1) of the Municipal Act, 2001 **BE FIXED** at \$342,500;
- A special charge **BE ESTABLISHED** for the amount referred to in part b, above, by a levy in accordance with By-law CP-1519-490 as amended; it being noted that the special charge shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the Municipal Act, 2001; and
- The attached by-law (see Schedule “B”) with respect to Municipal Special Levy for the Hyde Park Business Improvement Area **BE INTRODUCED** at the Municipal Council meeting on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Corporate Services Committee, March 20, 2018, Agenda item 2.4, Hyde Park Business Association 2018 Proposed Budget – Municipal Special Levy
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=39753>

LINK TO STRATEGIC PLAN

Council’s 2015-2019 Strategic Plan for the City of London identifies “Growing Our Economy” and “Leading in Public Service” as strategic areas of focus. These areas include “Strategic, collaborative partnerships” and “Collaborative, engaged leadership” as strategic priorities. These priorities involve working better together for economic growth with Business Improvement Areas and continuing to build strong working relationships with such community partners. In line with these strategies, the City provides guidance to the Business Improvement Areas of London in regards to establishment and ongoing business and financial operations. The City also acts as the intermediary with respect to collecting the approved levy amounts which fund services provided to the Business Improvement Area members and thus promote continued growth in London’s economy.

BACKGROUND

On February 21, 2019, the Board of Management of the Hyde Park Business Improvement Area (HPBIA) approved the 2019 budget (Schedule “A”).

Under subsection 205(2) of the Municipal Act, 2001, a business improvement area (BIA) must submit an annual budget to Council that Council may approve in whole or in part, but may not add expenditures. The Hyde Park BIA has met this requirement in Schedule “A”, noting the 2019 expenditure budget of \$361,200.

Civic Administration provides the following comments based on its review of the submission:

- a) The Hyde Park BIA submitted a 2019 budget of \$361,200, which represents an increase of \$54,446 (17.7%) compared to its 2018 budget of \$306,754.
- b) Revenue is higher in 2019 after a \$35,746 (11.7%) levy increase for a total levy of \$342,500, plus a \$10,000 draw from the Operating Fund. The levy increase is a result of new businesses establishing within HPBIA’s boundaries.
- c) Significant changes to expenditures in 2019 include:
 - i. Salary and Wages - increased as a staff position has been added for marketing, social media and communications for the BIA.
 - ii. Pondfest/Outdoor Piano Program - increased the budget to stage a larger event than 2018 and provide more marketing to encourage greater participation from across London. Hosting events like Pondfest is an important part of HPBIA’s mandate.
 - iii. Member Incentive Program – a new budget amount for the Uptown Dollars program to promote shopping at local vendors.
 - iv. Community Beautification Projects - expense has increased to extend the scope of beautification within the BIA’s boundaries.
 - v. Allowance for Vacancy Rebates - no amount budgeted for 2019 because the program was eliminated.
 - vi. City Repayment - no amount budgeted for 2019 because the \$16,860 owed to the City of London was paid in full in 2018.

At the time of submitting this report, audited 2018 financial statements were unavailable. Estimates received from HPBIA indicate a 2018 year-end surplus of \$49,563 and an unaudited December 31, 2018 balance in the Operating Fund of \$49,630.

The owners of business property within the business improvement area will be responsible for payment of \$342,500 to be raised by the Corporation for the 2019 fiscal year for the purposes of HPBIA and pursuant to subsection 208(1) of the Municipal Act, 2001. Upon Council approval, the City of London will pay HPBIA the budgeted Municipal Special Levy amount.

Under subsection 207(1) of the Municipal Act, 2001, a business improvement area must submit to Council its audited annual financial report for the preceding year. The HPBIA meets this requirement each year through the City of London’s Annual Financial Report.

PREPARED BY:	REVIEWED BY:
ZEINA NSAIR, CPA, CGA MANAGER, FINANCIAL MODELLING, FORECASTING AND SYSTEMS CONTROL FINANCIAL PLANNING & POLICY	ALAN DUNBAR, CPA, CGA MANAGER FINANCIAL PLANNING & POLICY
SUBMITTED BY:	RECOMMENDED BY:
KYLE MURRAY, CPA, CA DIRECTOR FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Schedule “A”

Hyde Park Business Improvement Area
2019 Proposed Budget
with 2018 Comparators

Revenue Overview

Revenue Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Rev	Increase / (Decrease) over 2018
Municipal Special Levy	306,754	306,754	-	342,500		35,746
Supplementary Taxes		19,146	19,146		0.0%	-
Net Municipal Special Levy	306,754	325,900	19,146	342,500	100.0%	35,746
Draw from Operating Fund			-	10,000		10,000
Government Student Funding		3,718	3,718	3,700		3,700
Miscellaneous		2,365	2,365	5,000		5,000
Total Revenue	306,754	331,983	25,229	361,200	100.0%	54,446

Expenditure Overview

Expenditure Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Exp	Increase / (Decrease) over 2018
ADMINISTRATION						
Salary, Wages, MERCS	90,318	92,132	(1,814)	115,265	31.9%	24,947
Summer Student		3,718	(3,718)	3,700		3,700
Insurance	2,111	2,814	(703)	2,700	0.7%	589
Bookkeeping, Audit, Professional Fees	9,500	1,326	8,174	9,500	2.6%	-
Total Administration	101,929	99,990	1,939	131,165	36.3%	29,236
OFFICE						
Office Signage	500	143	357		0.0%	(500)
Office Furniture	5,000	9,857	(4,857)	2,500	0.7%	(2,500)
Leasehold Improvements			-	3,500	1.0%	3,500
Total Office	5,500	10,000	(4,500)	6,000	1.7%	500
RENT						
Office Rent incl tax	23,526	23,526	-	24,232	6.7%	706
Total Rent	23,526	23,526	-	24,232	6.7%	706
GENERAL EXPENSES						
Phone, Internet, Office 365	2,186	1,908	278	2,186	0.6%	-
Stationary / Supplies	5,000	3,459	1,541	4,000	1.1%	(1,000)
Training / Conferences	4,000	3,842	158	4,000	1.1%	-
Subscriptions / Memberships	800	789	11	800	0.2%	-
Bank Charges	250	366	(116)	250	0.1%	-
Operating			-	1,500	0.4%	1,500
Miscellaneous Expense	3,000	3,265	(265)		0.0%	(3,000)
Total General Expenses	15,236	13,629	1,607	12,736	3.5%	(2,500)
MEMBER SERVICES						
AGM including Postage	10,000	3,397	6,603	8,000	2.2%	(2,000)
Member365	3,133	2,788	345	1,800	0.5%	(1,333)
Q Newsletters / Graphic Design / Content Dev	1,500		1,500	-	0.0%	(1,500)
Total Member Services	14,633	6,185	8,448	9,800	2.7%	(4,833)
BUSINESS DEVELOPMENT						
Communications & Marketing	6,000	7,599	(1,599)	6,000	1.7%	-
Promotional Marketing Materials	3,000	3,046	(46)	3,000	0.8%	-
Website Dev, Hosting & Maintenance	5,000	1,707	3,293	1,500	0.4%	(3,500)
Monthly Business Networking Meetings	4,000		4,000	2,500	0.7%	(1,500)
Special Events / Sponsorships	10,000	6,699	3,301	10,000	2.8%	-
Other Program Initiatives	5,000	4,999	1	4,800	1.3%	(200)
Pondfest / /Outdoor Piano Program	6,000	7,401	(1,401)	15,000	4.2%	9,000
Traffic Calming Program	8,500	5,484	3,016	8,500	2.4%	-
Member Incentive Program			-	10,000	2.8%	10,000
CTV Ad Package	27,000	13,147	13,853	28,000	7.8%	1,000
Community Beautification Projects	50,000	46,974	3,026	74,467	20.6%	24,467
Total Business Development	124,500	97,056	27,444	163,767	45.3%	39,267
Allowance for Vacancy Rebates	10,000	-	10,000		0.0%	(10,000)
City Repayment	8,430	16,860	(8,430)	-	0.0%	(8,430)
Contingency	3,000		3,000	6,000	1.7%	3,000
HST		15,174	(15,174)	7,500	2.1%	7,500
Total Hyde Park Expenditure	306,754	282,420	24,334	361,200	100.0%	54,446
Net Surplus / (Deficit)		49,563	49,563	-		
Draw from/(Contribution to) Operating Fund		(49,563)	(49,563)	-		
Net	-	-	-	-		

All figures subject to audit.

All figures subject to rounding.

Schedule “B”

Bill No.
2019

By-law No.

A by-law to raise the amount required for the purposes of the Hyde Park Business Improvement Area Board of Management for the year 2019 in accordance with section 208 of the *Municipal Act, 2001*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* as amended provides that a municipality may pass by-law respecting; the financial management of the municipality (paragraph 3) and services or things that the municipality is authorized to provide under subsection 10(1) (paragraph 7);

AND WHEREAS By-law CP-1519-490, as amended, provides for an improvement area to be known as the Hyde Park Business Improvement Area and establishes a Board of Management for it known as the Hyde Park Business Improvement Area Board of Management;

AND WHEREAS subsection 208(1) of the *Municipal Act, 2001* provides that the municipality shall annually raise the amount required for the purposes of the board of management (of a business improvement area);

AND WHEREAS section 23 of the *Municipal Act, 2001* provides that without limiting sections 9, 10 and 11 those sections authorize a municipality to delegate its powers under the *Municipal Act, 2001*;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That the budget for the 2019 fiscal year submitted by the Hyde Park Business Improvement Area Board of Management attached as Schedule “A” is approved.
2. The amount to be raised by the Corporation for the 2019 fiscal year for the purposes of The Hyde Park Business Improvement Area Board of Management and pursuant to subsection 208(1) of the *Municipal Act, 2001* is \$342,500.
3. A special charge is established for the amount referred to in section 2 of this by-law by a levy in accordance with By-law CP-1519-490, as amended.
4. The special charge referred to in section 3 of this by-law shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the *Municipal Act, 2001*.

5. The administration of this by-law is delegated to the City Treasurer who is hereby authorized and directed to do such things as may be necessary or advisable to carry out fully the provisions of this by-law.

6. This by-law comes into force and effect on the day it is passed.

Ed Holder,
Mayor

Catharine Saunders,
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	OLD EAST VILLAGE BUSINESS IMPROVEMENT AREA 2019 PROPOSED BUDGET – MUNICIPAL SPECIAL LEVY

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the Old East Village Business Improvement Area:

- a. The Old East Village Business Improvement Area proposed 2019 budget submission in the amount of \$205,191 **BE APPROVED** as outlined in Schedule “A”;
- b. The amount to be raised by The Corporation of the City of London for the 2019 fiscal year for the purposes of the Old East Village Business Improvement Area and pursuant to subsection 208(1) of the Municipal Act, 2001 **BE FIXED** at \$42,000 (which includes \$40,000 for the Municipal Special Levy and an estimated \$2,000 for an allowance for levy rebates administered by the City of London on behalf of the Old East Village Business Improvement Area);
- c. A special charge **BE ESTABLISHED** for the amount referred to in part b, above, by a levy in accordance with By-law CP-1 as amended; it being noted that the special charge shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the Municipal Act, 2001; and
- d. The attached by-law (see Schedule “B”) with respect to Municipal Special Levy for the Old East Village Business Improvement Area **BE INTRODUCED** at the Municipal Council meeting on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Planning and Environment Committee, September 24, 2018, Agenda item 2.6, Amendment to By-law CP-1 – Expansion of Old East Village Business Improvement Area
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=50661>

Planning and Environment Committee, May 14, 2018, Agenda item 4.4, Expansion of, and Amendment to, By-law CP-1 – Old East Village Business Improvement Area
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=44516>

Corporate Services Committee, March 20, 2018, Agenda item 2.2, Old East Village Business Association 2018 Proposed Budget – Municipal Special Levy
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=39756>

Planning and Environment Committee, March 19, 2018, Agenda item 4.3, Old East Village Business Improvement Area Request for Boundary Expansion
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=39806>

LINK TO STRATEGIC PLAN

Council’s 2015-2019 Strategic Plan for the City of London identifies “Growing Our Economy” and “Leading in Public Service” as strategic areas of focus. These areas include “Strategic, collaborative partnerships” and “Collaborative, engaged leadership” as strategic priorities. These priorities involve working better together for economic growth with Business Improvement Areas and continuing to build strong working relationships with such community partners. In line with these strategies, the City provides guidance to the Business Improvement Areas of London in regards to establishment and ongoing business and financial operations. The City also acts as the intermediary with respect to collecting the approved levy amounts which fund services provided to the Business Improvement Area members and thus promote continued growth in London’s economy.

BACKGROUND

On January 16, 2019, the Board of Management of the Old East Village Business Improvement Area (OEV BIA) approved the 2019 budget (Schedule “A”).

Under subsection 205(2) of the Municipal Act, 2001, a business improvement area must submit an annual budget to Council that Council may approve in whole or in part, but may not add expenditures. The OEV BIA has met this requirement in Schedule “A”, noting the 2019 total expenditure budget of \$205,191.

Civic Administration provides the following comments based on its review of the submission:

- a) The OEV BIA submitted a 2019 budget of \$205,191 which represents an increase of \$4,729 (2.4%) compared to its 2018 budget of \$200,462.
- b) Revenue includes Net Municipal Special Levy of \$40,000 and City of London Funding of \$141,102. Total revenue increased by \$4,729 (2.4%) due to a \$25,219 net increase in the levy as a result of the expansion of OEV BIA’s boundaries, as approved by Council on October 2, 2018, offset by a decrease in OEV BIA’s draw from the Operating Fund.
- c) Significant changes to expenditures in 2019 include:
 - i. Operating Supplies and Costs/Printing and Communication – an increase to support the annual general meeting as a result of 2019 being a Board election year;
 - ii. Special Projects - an increase to fund beautification enhancements to promote the Juno Awards, some of which may include wood hoarding on buildings under construction;
 - iii. Salaries and Benefits - a decrease as a result of restructuring three positions into two positions ; and,
 - iv. Advertising, Marketing and Promotion – an increase as a result of establishing a yearly marketing plan for OEV BIA with additional advertising mediums being considered.

At the time of submitting this report, audited 2018 financial statements were unavailable. Estimates received from the OEV BIA indicated that there is a 2018 year-end surplus of \$4,068. The unaudited December 31, 2018 reserve fund balance is \$8,002 and the unaudited balance in the Operating Fund is \$91,081, including year-end adjustments.

The owners of business property within the business improvement area will be responsible for payment of \$42,000 to be raised by the Corporation for the 2019 fiscal year for the purposes of OEV BIA and pursuant to subsection 208(1) of the Municipal Act, 2001. Upon Council approval, the City of London will pay the OEV BIA the budgeted Net Municipal Special Levy amount of \$40,000, which reflects the allowance for levy rebates.

Under subsection 207(1) of the Municipal Act, 2001, a business improvement area must submit to Council its audited annual financial report for the preceding year. The OEV BIA meets this requirement each year through the City of London’s Annual Financial Report.

PREPARED BY:	REVIEWED BY:
ZEINA NSAIR, CPA, CGA MANAGER, FINANCIAL MODELLING, FORECASTING AND SYSTEMS CONTROL FINANCIAL PLANNING & POLICY	ALAN DUNBAR, CPA, CGA MANAGER FINANCIAL PLANNING & POLICY
SUBMITTED BY:	RECOMMENDED BY:
KYLE MURRAY, CPA, CA DIRECTOR FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Schedule “A”

Old East Village Business Improvement Area
2019 Proposed Budget
with 2018 Comparators

Revenue Overview

OEVBIA Revenue Detail:	2018 Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Rev	Increase / (Decrease) over 2018
Municipal Special Levy	15,781	15,781	-	42,000		26,219
Less: Allowance for Levy Rebates	(1,000)	(1,000)	-	(2,000)		(1,000)
Net Municipal Special Levy	14,781	14,781	-	40,000		25,219
Interest Revenue	66	34	(32)	66		-
City of London Funding	141,102	141,102	-	141,102		-
Draw from Operating Fund	44,513		(44,513)	24,023		(20,490)
Reserve Fund Drawdown		395	395			-
Miscellaneous		250	250			-
Total OEVBIA Revenue	200,462	156,562	(43,900)	205,191	100%	4,729

Expenditure Overview

OEVBIA Expenditure Detail:	2018 Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Exp	Increase / (Decrease) over 2018
ADMINISTRATION						
Telephone	1,500	1,169	331	1,500		-
Travel	660	550	110	700		40
Operating Supplies and Costs	800	561	239	1,000		200
Printing and Communications	710	781	(71)	1,500		790
Equipment / Building Allowance for Upgrades, Maintenance and Repairs	5,500	50	5,450	5,500		-
Salary & Benefits	21,817	18,823	2,994	23,420		1,603
Financial Audits	1,469	1,300	169	1,469		-
Training, Education and Development	240	161	79	500		260
Misc Administration	6,600	5,453	1,147	7,000		400
Total Administration	39,296	28,848	10,448	42,589	20.8%	3,293
RENT						
Office Rental	14,461	12,661	1,800	14,461		
Total Rent	14,461	12,661	1,800	14,461	7.0%	-
BUSINESS DEVELOPMENT / MEMBER SERVICES						
Advertising, Marketing and Promotion	1,500	3,925	(2,425)	6,500		5,000
Purchased Services	13,300	2,688	10,612	13,300		-
Salary & Benefits	118,605	96,543	22,062	111,341		(7,264)
Special Projects	3,000	1,820	1,180	6,500		3,500
Beautification	5,000	1,697	3,303	5,000		-
Community Initiatives	5,300	3,804	1,496	5,500		200
Total Business Development / Member Services	146,705	110,477	36,228	148,141	72.2%	1,436
HST Expense		508	(508)	-		-
Total Other	-	508	(508)	-	0.0%	-
Total OEVBIA Expenditures	200,462	152,494	47,968	205,191	100.0%	4,729
Net Surplus / (Deficit)	-	4,068	4,068	-		
Draw from/(Contribution to) Operating Fund	-	(4,068)	(4,068)	-		
Net	-	-	-	-		

All figures subject to audit.
All figures subject to rounding.

Schedule “B”

Bill No.
2019

By-law No.

A by-law to raise the amount required for the purposes of the Old East Village Business Improvement Area Board of Management for the year 2019 in accordance with section 208 of the *Municipal Act, 2001*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* as amended provides that a municipality may pass by-law respecting; the financial management of the municipality (paragraph 3) and services or things that the municipality is authorized to provide under subsection 10(1) (paragraph 7);

AND WHEREAS By-law CP-1, as amended, provides for an improvement area to be known as the Old East Village Business Improvement Area and establishes a Board of Management for it known as the Old East Village Business Improvement Area Board of Management;

AND WHEREAS subsection 208(1) of the *Municipal Act, 2001* provides that the municipality shall annually raise the amount required for the purposes of the board of management (of a business improvement area);

AND WHEREAS section 23 of the *Municipal Act, 2001* provides that without limiting sections 9, 10 and 11 those sections authorize a municipality to delegate its powers under the *Municipal Act, 2001*;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That the budget for the 2019 fiscal year submitted by the Old East Village Business Improvement Area Board of Management attached as Schedule “A”, which includes a Net Municipal Special Levy in the amount of \$40,000, is approved.
2. The amount to be raised by the Corporation for the 2019 fiscal year for the purposes of The Old East Village Business Improvement Area Board of Management and pursuant to subsection 208(1) of the *Municipal Act, 2001* is \$42,000.
3. A special charge is established for the amount referred to in section 2 of this by-law by a levy in accordance with By-law CP-1, as amended.
4. The special charge referred to in section 3 of this by-law shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the *Municipal Act, 2001*.

5. The administration of this by-law is delegated to the City Treasurer who is hereby authorized and directed to do such things as may be necessary or advisable to carry out fully the provisions of this by-law.

6. This by-law comes into force and effect on the day it is passed.

Ed Holder,
Mayor

Catharine Saunders,
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON MARCH 19, 2019
FROM:	ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	LONDON DOWNTOWN BUSINESS ASSOCIATION 2019 PROPOSED BUDGET – MUNICIPAL SPECIAL LEVY

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the following actions be taken with respect to the London Downtown Business Association Improvement Area:

- a. The London Downtown Business Association proposed 2019 budget submission in the amount of \$1,826,490 **BE APPROVED** as outlined in Schedule “A”;
- b. The amount to be raised by the Corporation of the City of London for the 2019 fiscal year for the purposes of the London Downtown Business Association Improvement Area and pursuant to subsection 208(1) of the Municipal Act, 2001 **BE FIXED** at \$1,915,390 (which includes \$1,825,390 for the Municipal Special Levy and an estimated \$90,000 for tax write-offs administered by the City of London on behalf of London Downtown Business Association Improvement Area);
- c. A special charge **BE ESTABLISHED** for the amount referred to in part b, above, by a levy in accordance with By-law CP-2 as amended; it being noted that the special charge shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the Municipal Act, 2001; and
- d. The attached by-law (see Schedule “C”) with respect to Municipal Special Levy for the London Downtown Business Association Improvement Area **BE INTRODUCED** at the Municipal Council meeting on March 26, 2019.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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Corporate Services Committee, March 20, 2018, Agenda item 2.1, London Downtown Business Association 2018 Proposed Budget – Municipal Special Levy
<https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=39742>

LINK TO STRATEGIC PLAN

Council’s 2015-2019 Strategic Plan for the City of London identifies “Growing Our Economy” and “Leading in Public Service” as strategic areas of focus. These areas include “Strategic, collaborative partnerships” and “Collaborative, engaged leadership” as strategic priorities. These priorities involve working better together for economic growth with Business Improvement Areas and continuing to build strong working relationships with such community partners. In line with these strategies, the City provides guidance to the Business Improvement Areas of London in regards to establishment and ongoing business and financial operations. The City also acts as the intermediary with respect to collecting the approved levy amounts which fund services provided to the Business Improvement Area members and thus promote continued growth in London’s economy.

BACKGROUND

The statutory requirements regarding the budget of a Business Improvement Area (BIA) are outlined in Section 205 of the Municipal Act, 2001.

Budget

205 (1) A board of management shall prepare a proposed budget for each fiscal year by the date and in the form required by the municipality and shall hold one or more meetings of the members of the improvement area for discussion of the proposed budget.

Council to approve

(2) A board of management shall submit the budget to council by the date and in the form required by the municipality and the municipality may approve it in whole or in part but may not add expenditures to it.

On January 17, 2019, the Board of Management of the London Downtown Business Association (LDBA) Improvement Area approved the 2019 budget (Schedule "A") and presented the budget to the membership for discussion at the Annual General Meeting on January 23, 2019. This satisfies subsection (1).

The LDBA satisfies the requirement in subsection (2) with recommendation a. requesting approval of Schedule "A", noting that the 2019 expenditure budget is \$1,826,490.

Civic Administration provides the following comments based on its review of LDBA's submission:

- a) The LDBA submitted a 2019 budget of \$1,826,490 which represents an increase of \$20,000 (1.1%) compared to its 2018 budget of \$1,806,490. This increase is a result of the elimination of the Business Vacancy Rebate and Reduction Program in 2019, resulting in an increase to total revenue by this same amount.
- b) Significant changes to expenditures in 2019 include:
 - i. Wages and Benefits - an increase to cover the costs of an added part-time position plus an increase in the cost of living for the existing personnel.
 - ii. Possible Move - a significant amount has been budgeted for a possible move as the cost of rent on the current location has increased substantially.
 - iii. Communications and Marketing – a decrease in this expenditure as a result of a decrease in planned festival sponsorships.
 - iv. Promo Downtown Dollars – an increase to provide downtown dollar giveaways in order to encourage more spending in the construction areas.
 - v. Mainstreet Sponsorship – expense has decreased as the funding for each year is based on the funds that are required to run the programs and work plans as decided by LDBA Improvement Area's Board of Management.
 - vi. Mainstreet About Face Sponsorship - an increase in 2019 as a result of the first payout of LDBA's 10 year commitment of \$100,000 per year made in 2014 to Fanshawe College for their new site in the former Kingsmills building.

On January 17, 2019, the Board of Management of the LDBA Improvement Area approved the 2019 Mainstreet London (MSL) budget (Schedule "B") and presented the budget to the membership for discussion at the Annual General Meeting on January 23, 2019.

Civic Administration provides the following comments based on its review of the MSL budget:

- a) LDBA submitted MSL's 2019 budget of \$588,700, which represents an increase of \$108,200 (22.5%) compared to its 2018 budget of \$480,500. Significant changes to revenues include an amount budgeted for Miscellaneous Income for one-time funding provided by the City of London for the hiring of a Dundas Place Manager. This position was intended to be a temporary two-year full-time position commencing in 2018. There was also a decrease in LDBA Sponsorship funding due to a reduction in costs related to recruitment work plans, partially offset by the increase in LDBA Sponsorship for About Face for Fanshawe College's newest building.

- b) Significant changes to the MSL’s expenditures in 2019 include:
- i. About Face - an increase in 2019 as a result of the first payout of LDBAIA’s 10 year commitment of \$100,000 per year made in 2014 to Fanshawe College for their new site in the former Kingsmills building.
 - ii. Wi-Fi London Area Wireless Network (LAWN) – expense has increased as replacement of old units are required in 2019.
 - iii. Recruitment - a significant decrease in recruitment expenses as program costs are expected to be less in 2019.
 - iv. Dundas Place - an amount budgeted for Dundas Place manager which administratively reports to MSL to coordinate with City and agency staff in executing the maintenance, activation, and security of Dundas Place.

At the time of submitting this report, audited 2018 financial statements were unavailable. Estimates received by the LDBA and MSL indicated that there is an estimated combined year-end surplus of \$101,158 for 2018 (LDBA surplus of \$83,203 and MSL surplus of \$17,955). The unaudited December 31, 2018 reserve fund balance is \$59,799 and the unaudited balance in the Operating Fund is \$703,252, including year-end adjustments.

The owners of business property within the business improvement area will be responsible for payment of \$1,915,390 to be raised by the Corporation for the 2019 fiscal year for the purposes of LDBAIA and pursuant to subsection 208(1) of the Municipal Act, 2001. Upon Council approval, the City of London will pay the LDBA Improvement Area the budgeted Net Municipal Special Levy amount of \$1,825,390 which reflects tax write-offs.

Under subsection 207(1) of the Municipal Act, 2001, a business improvement area must submit to Council its audited annual financial report for the preceding year. The LDBA meets this requirement each year through the City of London’s Annual Financial Report.

PREPARED BY:	REVIEWED BY:
ZEINA NSAIR, CPA, CGA MANAGER, FINANCIAL MODELLING, FORECASTING AND SYSTEMS CONTROL FINANCIAL PLANNING & POLICY	ALAN DUNBAR, CPA, CGA MANAGER FINANCIAL PLANNING & POLICY
SUBMITTED BY:	RECOMMENDED BY:
KYLE MURRAY, CPA, CA DIRECTOR FINANCIAL PLANNING & BUSINESS SUPPORT	ANNA LISA BARBON, CPA, CGA MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

Schedule “A”

London Downtown Business Association Improvement Area
2019 Proposed Budget
with 2018 Comparators

Revenue Overview						
LDBA Improvement Area Revenue Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Rev	Increase / (Decrease) over 2018
Municipal Special Levy	1,915,390	1,915,390	-	1,915,390		-
Tax Write offs	(90,000)	(55,808)	34,192	(90,000)		-
Allowance for Vacancy Rebates	(20,000)	-	20,000			20,000
Net Municipal Special Levy	1,805,390	1,859,582	54,192	1,825,390		20,000
Interest Income	1,100	2,128	1,028	1,100		-
Total LDBA Improvement Area Revenue	1,806,490	1,861,711	55,220	1,826,490	100.0%	20,000

Expenditure Overview						
LDBA Improvement Area Expenditure Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Exp	Increase / (Decrease) over 2018
ADMINISTRATION						
Wages and Benefits	435,910	435,910	-	486,000		50,090
Telephone	15,000	13,463	1,537	15,000		-
Stationery and Supplies	3,500	3,418	82	4,000		500
Insurance	6,700	7,113	(413)	7,200		500
Professional Services	3,600	3,529	71	3,600		-
Purchase and Leasing Equipment	17,000	16,777	223	16,500		(500)
Training / Conferences	18,000	19,607	(1,607)	18,000		-
Subscriptions / Memberships	3,000	3,618	(618)	3,100		100
Legal & Audit	5,000	3,233	1,767	10,000		5,000
Cleaning	7,700	8,146	(446)	8,000		300
Board Development & Expenses	5,000	5,132	(132)	5,000		-
Office Furniture	7,300	7,979	(679)	11,000		3,700
Possible Move				60,000		60,000
Miscellaneous Expense	3,590	3,513	77	3,290		(300)
Total Administration	531,300	531,438	(138)	650,690	35.6%	119,390
RENT						
Rent and Hydro	78,000	69,194	8,806	80,000		2,000
Total Rent	78,000	69,194	8,806	80,000	4.4%	2,000
MEMBER SERVICES						
Graffiti Removal	54,000	52,200	1,800	53,000		(1,000)
Annual General Meeting	15,000	24,190	(9,190)	20,000		5,000
Total Member Services	69,000	76,390	(7,390)	73,000	4.0%	4,000
BUSINESS DEVELOPMENT						
Communications & Marketing	350,000	409,014	(59,014)	284,000		(66,000)
Promo Downtown Dollars	55,000	65,000	(10,000)	65,000		10,000
Top up Tenant Improvement Loan Funding			-			-
MainStreet Sponsorship	355,500	266,065	89,435	219,700		(135,800)
MainStreet About Face Sponsorship	125,000	174,435	(49,435)	225,000		100,000
Planters	39,100	24,376	14,724	30,000		(9,100)
Public Art	10,000	6,518	3,482	10,000		-
Clean Team	143,000	142,078	922	146,100		3,100
Downtown Issues	-	-	-	-		-
Volunteer Recognition	5,000	172	4,828	2,500		(2,500)
Miscellaneous	5,090	1,941	3,149	5,000		(90)
Total Business Development	1,087,690	1,089,599	(1,909)	987,300	54.1%	(100,390)
HST	40,500	11,887	28,613	35,500		(5,000)
Total LDBA Improvement Area	1,806,490	1,778,507	27,982	1,826,490	100.0%	20,000
Net Surplus / (Deficit)	-	83,203	83,202	-		
Draw from / (Contribution to) Operating Fund	-	(83,203)	(83,202)	-		
Net	-	-	-	-		

All figures subject to audit.
All figures subject to rounding.

Schedule “B”

MainStreet London
2019 Proposed Budget
with 2018 Comparators

Revenue Overview

MainStreet London Revenue Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Rev	Increase / (Decrease) over 2018
London Downtown Business Association Sponsorship	355,500	266,065	(89,435)	219,700		(135,800)
LDBA Sponsorship for About Face	125,000	174,435	49,435	225,000		100,000
Interest Income	-	2,023	2,023	-		-
Miscellaneous Income	-	37,812	37,812	144,000		144,000
Total MainStreet London Revenue	480,500	480,335	(165)	588,700	100.0%	108,200

Expenditure Overview

MainStreet London Expenditure Detail:	2018 Approved Budget	2018 Actuals	2018 Surplus (Deficit)	2019 Proposed Budget	% of Total Exp	Increase / (Decrease) over 2018
ADMINISTRATION						
Personnel Costs	92,650	92,650	-	93,800		1,150
Total Administration	92,650	92,650	-	93,800	15.9%	1,150
ORGANIZATION / DESIGN / PROMOTION						
About Face	125,000	174,435	(49,435)	225,000		100,000
Dundas Place	-	-	-	144,000		144,000
TIL Bad Debt	-	13,784	(13,784)	-		-
Wi-Fi - LAWN	21,000	48,164	(27,164)	37,000		16,000
Business Retention	9,400	13,349	(3,949)	14,700		5,300
Recruitment	221,350	115,042	106,308	65,000		(156,350)
Total Organization / Design / Promotion	376,750	364,774	11,976	485,700	82.5%	108,950
HST Write off of 50% at year end	11,100	4,956	6,144	9,200		(1,900)
Total Other	11,100	4,956	6,144	9,200	1.6%	(1,900)
Total MainStreet London Expenditure	480,500	462,380	18,120	588,700	100.0%	108,200
Net Surplus / (Deficit)	-	17,955	17,955	-		
Draw from (Contribution to) Operating Fund	-	(17,955)	(17,955)	-		
Net	-	-	-	-		

All figures subject to audit.
All figures subject to rounding.

Schedule “C”

Bill No.
2019

By-law No.
A by-law to raise the amount required for the purposes of the London Downtown Business Association Improvement Area Board of Management for the year 2019 in accordance with section 208 of the *Municipal Act, 2001*.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* as amended provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* as amended provides that a municipality may pass by-law respecting; the financial management of the municipality (paragraph 3) and services or things that the municipality is authorized to provide under subsection 10 (1) (paragraph 7);

AND WHEREAS By-law CP-2, as amended, provides for an improvement area to be known as the London Downtown Business Association Improvement Area and establishes a Board of Management for it known as the London Downtown Business Association Improvement Area Board of Management;

AND WHEREAS subsection 208(1) of the *Municipal Act, 2001* provides that the municipality shall annually raise the amount required for the purposes of the board of management (of a business improvement area);

AND WHEREAS section 23 of the *Municipal Act, 2001* provides that without limiting sections 9, 10 and 11 those sections authorize a municipality to delegate its powers under the *Municipal Act, 2001*;

AND WHEREAS it is deemed expedient to pass this by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. That the budget for the 2019 fiscal year submitted by the London Downtown Business Association Improvement Area Board of Management attached as Schedule “A” is approved.
2. The amount to be raised by the Corporation for the 2019 fiscal year for the purposes of the London Downtown Business Association Improvement Area Board of Management and pursuant to subsection 208(1) of the *Municipal Act, 2001* is \$1,915,390.
3. A special charge is established for the amount referred to in section 2 of this by-law by a levy in accordance with By-law CP-2, as amended.
4. The special charge referred to in section 3 of this by-law shall have priority lien status and shall be added to the tax roll pursuant to subsection 208(7) of the *Municipal Act, 2001*.
5. The administration of this by-law is delegated to the City Treasurer who is hereby authorized and directed to do such things as may be necessary or advisable to carry out fully the provisions of this by-law.

6. This by-law comes into force and effect on the day it is passed.

Ed Holder,
Mayor

Catharine Saunders,
City Clerk

First Reading – March 26, 2019
Second Reading – March 26, 2019
Third Reading – March 26, 2019

Dear Council,

Farhi Holding Corporation (FHC) owns and manages over 150 properties in the City of London, 108 of which are located in the downtown core. We are reaching out to formally express our disapproval of the London Downtown Business Association's (LDBA) decision to move forward with a budget request to the City of London at this time. We would like to see the LDBA function as an organization that puts their members first. Although it is important for the day to day operations and staffing obligations to proceed, we need a fundamental restructuring of the organization. The Annual General Meeting on January 22nd clearly revealed to the public that members have lost their confidence in the existing board and are completely dissatisfied with the standing governance practices. The Operating Budget was not approved and a "temporary board" sanctioned to oversee the activities of the LDBA is not in accordance with the Municipal Act. Council needs to carefully consider the legal ramifications of passing Board and Budget submissions that its membership does not support on public record. We see this as a reasonable request given recent events and their track record.

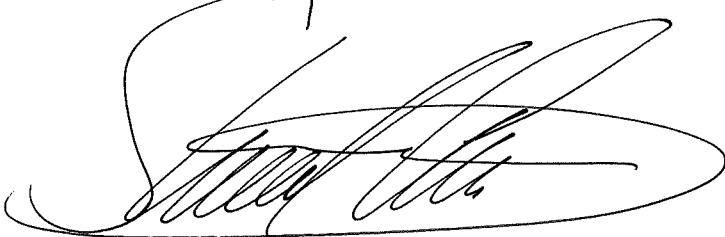
Here is a small list of concerns justifying our position:

- The obscurity of the LDBA's spending (for example, \$11,000 has been allocated to office furniture, \$18,000 for conferences and \$20,000 for the AGM)
- The cost to move the LDBA into a new premise when a better offer is on the table which saves more money for the membership
- Inadequate and weak representation of the overwhelming opposition of LDBA members towards the Bus Rapid Transit plan
- \$540,000 spent on Live, Work, Learn, and Play which resulted in no outcomes that were promised by Management.

- A million dollars of membership dues were pledged to Fanshawe College's Kingsmill project without any consultation with LDBA membership
- Their inability to effectively counteract the intimidation and harassment of potential customers and tenants by drug users in the downtown core
- The garbage-strewn downtown roads and sidewalks that remain unaddressed
- The LDBA's inability to help attract quality tenants to the 700,000 square feet of vacant office space downtown

For City Council to approve the LDBA budget at this time would contravene the will of the LDBA membership that was made evident at the January 22, 2019 AGM. Moving forward, Farhi Holding Corporation and our tenants respectfully ask that the City of London standby until the membership along with the Board of Directors undertake a thorough reworking of LDBA governance and operations, including the creation of an ad hoc committee to overhaul the current election process to ensure effective representation. In the meantime, we urge London City Councilors to uphold the rights of the LDBA membership and reject this unapproved budget until an approved one comes forward.

Sincerely,

A large, stylized handwritten signature in black ink, likely belonging to Shmuel Farhi, is written over a horizontal line.

Shmuel Farhi, President

Farhi Holdings Corporation

484 Richmond St. Suite 200,

London, N6A 3E6

(519) 645-6666 FAX: (519) 645-7735

farhi@farhi.ca www.fhc.ca

FARHI HOLDINGS CORPORATION

484 RICHMOND ST SUITE 200, LONDON, ONTARIO CANADA N6A 3E6

TEL: (519) 645-6666 FAX: (519) 645-7735 WEBSITE: www.fhc.ca

From: sandy weir
Sent: Tuesday, February 26, 2019 11:14 AM
To: Saunders, Cathy <csaunder@london.ca>
Subject: Corporate Services Committee

Hi Cathy,

As a member of the Downtown London BIA, I request delegation status at the Corporate Services Committee meeting where the Downtown London BIA budget will be reviewed. If the budget will be reviewed at any other committee meeting I would request delegation status there as well. The budget being submitted was not approved by the membership at the recent AGM and I would like to present a motion for Council to defer approval of the budget until such time as the membership approves the budget.

Kind regards,
Sandy

--

Sandy Peraic Weir

From: Lisa Fisher - Ferguson | Hangar9
Sent: Friday, March 08, 2019 11:37 AM
To: Saunders, Cathy <csaunder@london.ca>
Subject: Delegation Status Corporate Services Committee

Dear Cathy,

As a member of the Downtown London BIA, I request delegation status at the Corporate services Committee meeting where the Downtown London BIA budget will be reviewed. If the budget will be reviewed at any other committee meeting I would request delegation status there as well. The budget being submitted was not approved by the membership at the recent AGM and I would like to present a motion for council to defer approval of the budget until such time as the membership approves the budget.

Lisa Ferguson



www.hangar9.ca

London 620 Richmond Street (t) 519.672.0073

Toronto First Canadian Place, 100 King Street W (t) 416.777.0073

Warehouse, 85 Colville Road, Unit 5, Toronto, On M6M 2Y6 (t) 416.614.0073



March 13, 2019

Mayor and Council Members,
City of London,
300 Dufferin Avenue,
London, ON

Re: London Downtown Business Association

Your Worship and Members of Council:

We are reaching out to you today to provide you with background information and context on the London Downtown Business Association and MainStreet London prompted by the resolution passed by council on March 5, 2019 that deferred the approval of our board.

Business Improvement Areas (BIA's) were created in 1970 in the Bloor West Area by Alex Ling. There are now over 500 in Canada and over 2500 in North America.

BIA's are mandated as follows:

- Area Marketers. Inclusive of the entire area and not individual businesses
- Public Realm Investors
- Event Facilitators
- Policy Advocates

As a member driven organization representing over 1600 members, we take very seriously the mission of working together to serve and be the voice of our members and to help create a more vibrant and prosperous downtown. This includes a commitment to openness, transparency and communication with members, community partners and the City of London.

The responsibility of stewarding the Downtown London organization both strategically and financially, is governed by our volunteer Board of Directors. We operate with rigorous controls and accountabilities, according to City mandated by-laws, with financials that are audited annually by KPMG. As defined in our 2016 strategic plan – attached to this letter - advocacy on behalf of members and our downtown is one of our four key priorities. Over the past few years, our advocacy has

LDBA Letter to Council
March 13, 2019

included regular member surveys, at times conducted by third party partners, ongoing communication through email, in-person visits, open houses and meetings to ensure that our members hear from us, have the opportunity to provide input and know about the successes of our downtown.

The LDBA has been dealing with some member frustration and issues since late 2018. Our past and proposed Boards, members at large and staff have all been working together through these challenges in an open and transparent manner. An Ad Hoc committee was requested by some of our members and has been established to review our by-laws and policies with an anticipated report in June of 2019.

We fully acknowledge that the City by-law # CP-2 (created in 2014 when we expanded our boundary) states that our board consists of 9 members and we presented 13 for approval (12 plus the past chair who will vacate the position when a new chair is internally elected.) While this seems like a glaring disregard for the Municipal by-law, it has been our practice to operate under our local by-laws which allow for 12 plus a City Councillor as we have been for the past 20 plus years. We will remain governed by our existing board and approach any by-law changes and future appointees at the conclusion of the Ad Hoc Committee's findings.

To continue moving London's Downtown forward with positive momentum having everyone working together, we respectfully request that Council approve our draft budget which is being presented to Corporate Service Committee on March 19, 2019.

Our 2019 goals and operational plan include the following which will be impacted with a delayed budget decision:

- Launch our highly anticipated recruitment plan
- Construction mitigation and communication activities
- Distribution of Downtown Dollars which put money directly into the tills of our members
- Sponsor and seed funding for new and ongoing festivals and cultural events
- Activation of Downtown spaces and places
- Funding façade grants or tenant improvement loans
- Providing member education programs
- Installing plants and other beautification or public realm investments such as murals
- Hiring SuperGuides
- Marketing and advertising campaigns outside of social media
- Additional small business supports

We have been incorrectly and unfairly portrayed as an organization that does not have its house in order. This could not be further from the truth.

We are available and willing to answer any questions you may have now or at any time in the future.

Yours truly,

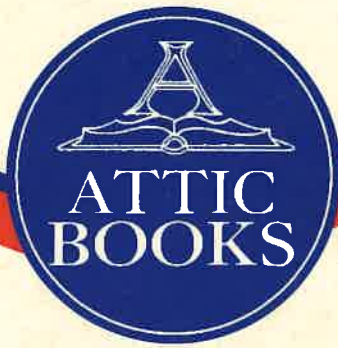
DOWNTOWN LONDON



Gerald Gallacher,
Board Chair, LDBA

Attachment:

[Downtown London Strategic Plan](#)



Antique Books, Maps, and Prints

London Downtown Business Association

Letter of Support

This letter is to compliment the LDBA on the work that they have been doing for over 35 years (including precursor BLA's). While some members have always complained they are truly in the minority. The cures for the downtown ills were a long time in the making and will continue to improve over time with the right guidance. There are no silver bullets to immediate and convenient change. Destruction is much quicker.

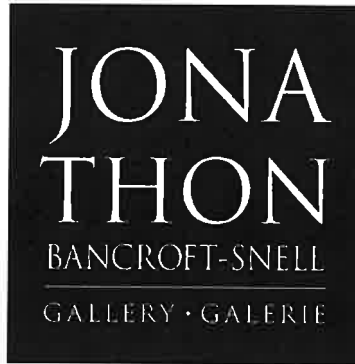
I attended the general meeting and was disgusted by the organized foment. The major sticking point was who gets to vote and how often. It would be a huge mistake to allow businesses and property owners multiple votes based on the number of business and properties they own or control allowing bully politics to prevail to the detriment of downtown and London as a whole. Two large property owners already sit on the board and that would cover the interests of large and multiple property owners more than adequately. Proxy voting already distorts the intent of a better downtown and to further dilute the small and vibrant businesses appeal for the downtown.

The dissident group has put no thought or constructive input into downtown and have not suggested any improvements other than shaving a few dollars off the levy. It seems that while picking up a few coins and having their wallets lifted by lawyers is very short-sighted. Lawyers should be mindful of the democratic process and not just to be there to provide lucrative conflict. This is especially true of lawyers with a clear conflict of interest.

The Richmond Row association joined Downtown London because it was doing something positive. Richmond Row's issues have never been properly addressed by the previous association and it will take some time to find solutions. The LDBA has the skill set and process needed to bring about positive change.

Marvin Post

Business Owner – Attic Books
Property Owner – 240 Dundas St.



January 30th, 2019

Ref: Downtown London

To the Board Members of Downtown London

I have owned and operated my current business, Jonathon Bancroft-Snell Gallery, in downtown London since 2000. I was one of the beneficiaries of the Culture, Commerce, Community initiative spearheaded by David Hall Manager of the then Galleria London, currently Citi-Plaza. The creativity of the small business creation plan was a catalyst to the growth of the gallery into the premier gallery of its kind specializing in Contemporary Canadian Ceramics.

Janette MacDonald, from the beginning, supported the growth of the gallery and advocated strongly my moving on to Dundas Street. In 2005 when my lease was up it was Janette and her team that assisted me in locating new premises on Dundas. The interest and support that Main Street, now Downtown London, provided facilitated the move and the connection with a landlord that has enabled my business to flourish. The Downtown London team assisted with a façade improvement grant, promotion through their website of in-house events and valuable assistance when navigating the intricacies of city hall bureaucracy.

The relationship that I have enjoyed with the Downtown London team is immeasurable. It is not easy owning a small business. The vagaries of economy, weather and changing downtown demographics are the aspects that need to be dealt with as a business owner. Downtown London has been constant and continual in their professional and personal response to my needs.

I think that Downtown London and the current team led by Janette MacDonald should be commended and supported for their ongoing support of downtown businesses. I have complete faith in the ability of Downtown London as a worthy advocate of the needs of downtown businesses. I support them 100% in their continued efforts to infuse our core with a strong sense of identity and trust them to lead us to a prosperous future.

Yours Truly,

Jonathon Bancroft-Snell

*~Jonathon Bancroft-Snell Gallery * 258 Dundas Street * London * Ontario * N6B 2Y9 ~*



digital echidna

Jan. 29, 2019

To Whom it May Concern,

I am presenting this letter as a show of my support for Janette MacDonald, the Board of Downtown London, and its staff. Our interactions with the organization have always been professional and we believe strongly in its ongoing efforts to improve the downtown core.

Digital Echidna has long been established in downtown London. In 2008, we opened our first downtown location at 207 King St. (a venue I continue to own and have made available to the London Fringe Festival). In 2011, we moved to 365 Talbot -- the second floor of the venerable Burridge Block. And two years later, we expanded into the connected storefront location at 103 King St.

In fact, we went to great lengths to ensure that our most recent move in February 2018 was to a location that was of suitable size for our growing company. The only "must" was that it had to be in the downtown core.

That is to say that we have a vested interest in a healthy downtown and we see no evidence that the current team is doing anything less than its best to facilitate that.

Both personally and professional, we have partnered with Downtown London on activities, events, and partnerships to support the area. From participating in videos and advocacy efforts to our most recent partnership with Downtown London, YOU, and local merchants to address vagrancy issues, we've found Downtown London to be committed to downtown businesses.

We appreciate that the core has significant challenges, but we're committed to working together to help restore downtown's vibrancy. I'm confident in Downtown London's ability to work towards that goal and they have my support.

Andrew McClenaghan
Digital Echidna

web.isodes

213 KING STREET | LONDON ONTARIO | N6A 1C9
TEL 519.488.6977 | FAX 519.488.1154

Jan 27, 2019

To Whom It May Concern,

My first encounters with Downtown London, AKA LDBA, were upon my return to London from studying and working abroad; largely in urban centres in the US such as Los Angeles, New York, and Tampa, Florida.

It took no time to realize that, given my disposition towards population density and the sophisticated and culturally intense lifestyle that comes from living in an urban core, London's downtown would hold similar interest for me. Moreover, I became increasingly certain that there was one place I would be able to find the people, places, and experiences that I craved. I was not disappointed.

Since 2003 I have either lived, or worked, or both, downtown (even my current residence is a short walk away in Wortley village), and I have seen the face of Downtown London change. I've watched empty lots spring skyscrapers, boarded-up buildings become exciting new businesses. I've watched an evolving Downtown attract gaming companies, digital software firms, and next-generation digital content companies. When the challenge of bringing high-speed fibre Internet to heritage buildings in the core arose, Downtown offered support. I have seen Downtown London play host to the World, and am excited to be a member of a team bringing the best in Canadian music to our community. Finally, and most importantly, I have met and built relationships with a broad, diverse range of individuals who have become my clients, my colleagues, and my friends.

I have served on the Boards of Museum London and the Grand Theatre, both venerable arts organizations vital to London's cultural heritage and future. I have worked as a member of our digital creative industries at multinational companies and startups that have grown to national acclaim. I have enjoyed culinary experiences unrivalled by those I've had in larger cities, and I have shopped for local produce at our Covent Garden Market.

My own culinary adventures at home have benefitted tremendously from the counsel and products offered by Jill's Table, and my musical tastes have been expanded by Grooves Records - but two of the many shops and services I enjoy


web.isodes

213 KING STREET | LONDON ONTARIO | N6A 1C9
TEL 519.488.6977 | FAX 519.488.1154

Downtown; and, when I meet friends, colleagues, and others involved in exciting and adventurous endeavours, we meet at Milos's and revel in the flavours and good cheer that make that place great.

None of these things happened overnight, and none due to the sole actions of any one person; but, these are the experiences that bring me home, no matter how frequently I travel (or to where), and they are born of the careful and deliberate stewardship of a group of dedicated staff and volunteers at Downtown London. It is through their work that partnerships have been forged to bring us new horizons in education, culture, and our economy.

I am pleased and proud to work alongside the other tenants and land-owners of the downtown core with the staff and volunteer board at LDBA to further this work in a consistent, considered, and collaborative manner that can bring delight and prosperity to all.



Adam Caplan
Founder and Principal
web.isod.es, Inc.



MEMO

To: Chair and Members
Corporate Services Committee

From: C. Saunders, City Clerk

Date: March 8, 2019

**Re: Special Meeting Strategic Priorities and
Policy Committee**

The Mayor has called a Special Meeting of the Strategic Priorities and Policy Committee to be held on Monday, April 8, 2019 commencing at 8 AM at Spencer Hall Conference Centre, 551 Windermere Road, London, Ontario N5X 2T1.

The purpose of this meeting is to educate or train the Members of Council, and therefore the Committee may convene in closed session. It is noted that at the meeting no discussions will be held that would materially advance the business or decision-making of the Council or standing committee.

In order for a Strategic Priorities and Policy Committee meeting to be held at an alternative location to City Hall, a resolution of Municipal Council must be passed to authorize the change in location. The following resolution is provided for your consideration:

“That pursuant to section 2.6 of the Council Procedure By-law, authorization BE GIVEN for the April 8, 2019 Special Meeting of the Strategic Priorities and Policy Committee be held at the Spencer Hall Conference Centre, 551 Windermere Road, London, Ontario N5X 2T1, commencing at 8 AM for the purpose of educating or training the Members of Council.”

It is noted that the previously scheduled meeting of the Strategic Priorities and Policy Committee that is to be held on Monday, April 8, 2019 at City Hall will commence at 5 PM, instead of 4 PM to provide Members of Council travel time to City Hall.

Respectfully submitted,

Cathy Saunders
City Clerk



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

March 7, 2019

Chair and Members
Corporate Services Committee

Re: Association of Municipalities of Ontario (AMO) – Chair, Large Urban Caucus

The Association of Municipalities of Ontario (AMO) is receiving nominations for Chair of the Large Urban Caucus.

I am interested in seeking this position and therefore, I respectfully request that the Municipal Council endorse my nomination to run for the position of Chair, Large Urban Caucus for the Association of Municipalities of Ontario (AMO) and approve payment of all eligible costs associated with attending the relevant AMO Large Urban Caucus meetings in 2019.

Thank you for your consideration of this matter.

Respectfully submitted,

Anna Hopkins
Councillor, Ward 9



300 Dufferin Avenue
P.O. Box 5035
London, ON
N6A 4L9

March 8, 2019

Chair and Members of the
Corporate Services Committee

Re: Amending Hours of Sale of Liquor on Weekend to begin at 9 AM

The Alcohol and Gaming Commission of Ontario recently changed regulations pertaining to off-site winery retail stores, Liquor Control Board of Ontario stores, The Beer Store and authorized grocery stores to provide for the sale of liquor products between the hours of 9 AM to 11 PM on Sundays to provide consistency with the remainder of the week.

The City of Toronto Council passed the following motion at its meeting held on February 26, 2019 with respect to permitting restaurants the right to sell alcohol during the same hours as retail stores, on weekends.

“City Council request the Attorney General of Ontario and the Alcohol Gaming Commission of Ontario to change the permissible hours for the sale and service of alcohol for liquor licensed establishment to 9:00 a.m on Saturdays and Sundays”.

The undersigned support this initiative and are seeking support of the following recommendation:

“That the Attorney General of Ontario and the Alcohol Gaming Commission of Ontario BE REQUESTED to change the permissible hours for licensed establishments in the City of London to sell and serve alcohol on Saturdays and Sundays to commence 9 AM.”

Respectfully submitted,

Arielle Kayabaga
Councillor, Ward 13