



Building Markham's Future Together
Journey to Excellence

MARKHAM COUNCIL CODE OF CONDUCT

PRESENTATION TO GENERAL COMMITTEE DECEMBER 9, 2013

KIMBERLEY KITTINGHAM, CITY CLERK



Why Are We Here?

- To re-introduce Markham's Integrity Commissioner (Justice Donald R. Cameron) to Members of Council; &
- To review changes made to the draft Council Code of Conduct since it was last before General Committee; &
- To address any questions/concerns Council may have regarding the revised draft Code; &
- To seek approval for the adoption of the Council Code of Conduct.



Background

- The Municipal Act was changed in 2007 to address a number of issues largely resulting from the Bellamy (Toronto) & Sills (Waterloo) inquiries;
- The changes reflected growing public interest in ensuring greater accountability & transparency in municipal government administration.

Background (Cont'd)

- The legislative amendments included the creation of Part 6 of the Act dealing solely with “Accountability & Transparency”.
- Part 6 Act permits Ontario municipalities to:
 1. Appoint an Integrity Commissioner (IC)
 2. Establish a Code of Conduct for Members of Council

Markham's IC

- Since 2007 approximately 25 Ontario municipalities have appointed ICs.
- On June 26, 2013 Council approved the appointment of ADR Chambers Inc. (**Justice Donald R. Cameron**) as Markham's first Integrity Commissioner.
- Justice Cameron was appointed for 1 year with option to renew for up to 5 additional 1 year terms.



Markham's IC (Cont'd)

- The role of Justice Cameron is to perform, in an independent manner, the following functions:
 1. Complaint investigations regarding alleged breaches of the Code; &
 2. Provision of advice to individual Councillors regarding specific situations related to the application of the Code; &
 3. Provision of advice to Council on other policies/procedures that relate to the ethical behaviour of Councillors; &
 4. Provision of general advice to individual Councillors on conflict of interest issues; &
 5. Provision of information to the public regarding the Code & the obligations of Councillors under the Code; &
 6. Provision of an annual report to Council on the activities of the IC.

IC Powers

- In conducting an inquiry, Justice Cameron may exercise powers under the Public Inquiries Act.
- The City is required to provide Justice Cameron with any information he believes is necessary to conduct an inquiry (ex. Accounts, Financial Records, Report & Files).
- Justice Cameron is required to preserve secrecy with respect to all matters that come to his knowledge through an inquiry.

IC Powers (Cont'd)

- If Justice Cameron has reasonable grounds to believe a contravention of any other Act/Criminal Code has occurred, he is required to refer the matter to the appropriate authorities.
- Should this occur, Justice Cameron will suspend inquiry until any resulting police investigations &/or charge(s) have been disposed of.
- Justice Cameron will report such a suspension to Markham Council.

IC Reports

- Upon completion of an investigation, Justice Cameron will produce a Report for the City.
- The Report will summarize any alleged contravention(s) & will include Justice Cameron's opinion as to whether or not the contravention(s) occurred.
- If contravention(s) occurred, Justice Cameron will make recommendations for reprimanding the Member of Council involved.
- Council is not required to endorse Justice Cameron's recommendations & may choose to not take any action.
- Once received by the City, Justice Cameron's reports are public documents.

Council Code of Conduct

- The establishment of a Council Code of Conduct is a discretionary decision of Council.
- Since 2007, approximately 30 Ontario municipalities have adopted Codes.
- In accordance with the Municipal Act, the Code can address:
 - Ethical behaviour; &
 - Standards for appropriate interaction between Members of Council & staff, residents & key stakeholders; &
 - Appropriate use of Corporate resources.



Value of Council Code of Conduct

- Based on staff's research, Codes have served municipalities well especially where: 1) an IC has been appointed; & 2) the Codes have addressed Council-staff relations.
- Equally however, the lack of a Council Code of Conduct has created confusion, misunderstanding & even distrust between & among public, staff & municipal Councils.

Markham's Code of Conduct - Chronology

- June 25, 2012 - Code of Conduct concept first introduced at General Committee (GC) where it was referred to a Council Workshop.
- September 5, 2012 - Council Workshop - staff directed to prepare a Code of Conduct for Markham City Council.
- November 19, 2012 - staff presented draft Code to GC; at this meeting GC:
 - Referred draft Code to a second Council Workshop in 2013;
 - Approved mandate & qualifications for Markham's IC;
 - Approved the proposed Complaint Protocol process; &
 - Directed staff to begin recruitment for a Markham IC.

Chronology (Cont'd)

- February 11, 2013 - second Workshop - GC referred draft Code to a third Workshop for further discussion.
- April 16, 2013 – GC adopted draft Code with minor revisions.
- April 30, 2013 – Council referred the draft Code back to GC for further discussion.
- May 6, 2013 - GC referred the draft Code back to staff for further revisions. Staff also requested to:
 - Have Markham's Integrity Commissioner review the *draft* Code & provide his comments/suggestions to staff; &
 - Meet with Deputy Mayor Heath to review draft Code wording.

Revised Code of Conduct

- Formalizes standard practices already being used by Markham Councillors.
- Comprised of 6 main sections:
 - 1) Relations with public, staff & other Council Members;
 - 2) Receipt of gifts, hospitality & benefits;
 - 3) Handling of personal information & confidential materials;
 - 4) Use of Corporate resources;
 - 5) Conduct of Members;&
 - 6) Complaints.



Revised Code of Conduct (Cont'd)

- Several revisions have been made to the draft Code since it was last before GC in May.
- Changes reflect feedback received from Justice Cameron & Deputy Mayor Jack Heath & are noted in bold on the hard copy of the agenda & highlighted in yellow on the electronic copy.

Revised Code of Conduct (Cont'd)

- Changes to the Revised Code include:
 - Additional definitions to provide greater clarity:
 - City Records
 - Constituent Records
 - Closed/In-Camera Meeting
 - Confidential Information
 - Elected Official
 - Harassment
 - Personal Information

Revised Code of Conduct (Cont'd)

- Revised wording to reflect a more positive tone; &
- Complete re-writing in certain areas for increased clarity & understanding (Section 7 – Personal Information & Section 9 – Relations with Staff).
- Addition a new section (Section 20 – Complaints) to reference the Complaint Protocol.

Markham's Current Accountability Framework

- Markham currently demonstrates accountability & transparency through providing a sound governance framework, comprised of a system of policies, procedures & practices, categorized as follows:
 1. Legislated Requirements (i.e. fulfilling various legislative responsibilities as governed by provincial statutes such as the Municipal Act, Planning Act & the Development Charges Act).



Current Accountability Framework (Cont'd)

2. Fiscal Accountability, Oversight & Reporting (i.e. Annual Report/Budget Binder, Purchasing By-law, External Auditor Opinion and Management Letter).
3. Performance Measurement & Reporting (Annual Report, Annual Departmental Business Plan, Municipal Performance Management Program).



Current Accountability Framework (Cont'd)

4. Open Government (Public Distribution of Council and Standing Committee Agendas and Reports (including the posting of these documents on the City's website; Planning notice requirements (including courtesy notice requirements); Live web-streaming of Council and Standing Committee meetings).
5. Employment of Relatives of Staff Members and Council Policy; Use of Information Technology Policy.



Current Accountability Framework (Cont'd)

- 6. Internal Accountability & Ethical Standards (Code of Ethics & Conduct for City employees).
- 7. Hiring of Justice Cameron as Markham's Integrity Commissioner.
- 8. Adoption of a Council Code of Conduct.*

Recommendations

1. That Council adopt the proposed Council Code of Conduct; &
2. That staff arrange a training & education seminar with Members of Council & the Integrity Commissioner on the Code; &
3. That information on the Code of Conduct & the associated complaint submission process be placed on the City's website; &
4. That staff report back on the Code of Conduct in February, 2015 with any required revisions.



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Justice Donald R. Cameron

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Questions?

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