

**2013 Annual Report of the Integrity
Commissioner**

Commissioner's Remarks

"Freedom is obedience to self-formulated rules."

— Aristotle, The Nicomachean Ethics

It has been just over a year since I was appointed as Integrity Commissioner for the City of Ottawa. While significant progress has been accomplished in this past year alone, it is worth remembering that Ottawa City Council has embraced a significant amount of change overall since it first endorsed an Accountability Framework at the beginning of this Term of Council on December 8, 2010.

Members of City Council began with voluntary monthly disclosure of their individual office expenses in January 2011. By July 2012, City Council approved a lobbyist registry and the establishment of the Integrity Commissioner position. Two months later, City Council launched the Lobbyist Registry and appointed the Integrity Commissioner. A year later, on July 1, 2013, a Code of Conduct for Members of Council, an Expense Policy and a Community, Fundraising and Special Events Policy were enacted, followed by the first proactive disclosure of gifts and tickets received by Members of Council at the beginning of October 2013.

Meetings and exchanges with my colleagues at all levels of government have reinforced that the City of Ottawa Accountability Framework is unique in several aspects. First and foremost, City Council has not only elected to proactively invoke the discretionary integrity tools set out in the *Municipal Act, 2001*, but it has done so in a timely manner and, unlike other jurisdictions, in the absence of a scandal. This has allowed Council to adapt the integrity mechanisms such that they reflect and complement the existing culture of the City of Ottawa.

In addition, Ottawa is the first municipality in Ontario to integrate the roles of three integrity officials provided for in the *Municipal Act, 2001*. Merging the three roles of Integrity Commissioner, Lobbyist Registrar and Meetings Investigator made sense for the City of Ottawa, both as a fiscally responsible option, and particularly because the three roles support the ethical framework of individual Members of Council and Council as a whole. Though there remains some scepticism in the field that this model is both sustainable and beneficial, I have observed a recent shift whereby the Ottawa model is seen as a good balance of cost-effectiveness and a strong commitment to accountability and transparency.

Further, Ottawa is the second Canadian municipality to establish a formal lobbyist registry and the first to do so voluntarily. This accomplishment was realized both in record time and within existing resources.

Finally, Ottawa City Council has embraced the principle of transparency. Individual Members now proactively release not only monthly office expense reports but also quarterly Gifts Registry disclosure reports. Other proactive disclosure decisions made earlier this year (e.g. Routine Disclosure and Active Dissemination Policy), while outside the Integrity Commissioner's jurisdiction, attest as further evidence that a culture of transparency is taking a firm hold at the City of Ottawa.

Very few organizations go through such important change transformations with such rigour and steadfastness, while avoiding turmoil and internal strife.

The various aspects of Council's Accountability Framework can be linked to one main underlying principle that has made it possible to move quickly – Respect:

- Respect for the influence elected officials possess;
- Respect for the institution;
- Respect for colleagues;
- Respect for the public; and
- Respect for the fiduciary responsibility that comes with elected office.

I would like to acknowledge the enthusiasm of the staff in the Office of the City Clerk and Solicitor. They are few but their commitment to supporting City Council's Accountability Framework is enormous. Their dedication to public service in support of stakeholders, lobbyists, Members of Council and the Integrity Commissioner is commendable.

I look forward in the coming year to continuing the work of enhancing transparency and public trust at City Hall and advising public office holders in their various roles.

Robert Marleau
Integrity Commissioner, City of Ottawa

Creation of the Office of the Integrity Commissioner

At its meeting of July 11, 2012, Ottawa City Council approved the roles, responsibilities, and selection process for the position of Integrity Commissioner for the City of Ottawa. As previously noted, Council also further delegated the roles of Meetings Investigator and Lobbyist Registrar to the Integrity Commissioner.

On August 29, 2012, the City Clerk and Solicitor announced my appointment as the City's first Integrity Commissioner. My appointment was for an initial term of one year, with an optional renewal for a single five-year term. At the end of August 2013, I was pleased to accept the City Clerk and Solicitor's offer for the five-year term extension.

It is my job to assist Members of Council, their staff, and municipal lobbyists operate with integrity. To that end, on my appointment, I was tasked with working with staff to develop a Code of Conduct for Members of Council. In addition to the Code, I brought forward the Community, Fundraising and Special Events Policy and contributed to the development of the Council Expense Policy. In my ongoing role as Integrity Commissioner, I guide Members of Council in interpreting and applying the Code of Conduct, and provide timely, confidential advice to Members on ethical behaviour. As Lobbyist Registrar, I ensure compliance with the Lobbyist Code of Conduct, and advise lobbyists on proper use of the Registry through education and outreach. Finally, as Meetings Investigator, I receive and investigate any requests for a closed meeting of Council, one of its committees or local boards

Over the past year, I have worked to build strong relationships with Members of Council, and to gain the trust and respect of Members and stakeholder groups with whom I have met in my capacity as Lobbyist Registrar.

LEGISLATIVE MANDATE OF THE INTEGRITY COMMISSIONER

The revised *Municipal Act, 2001* Part V.I, entitled "Accountability and Transparency" outlines the accountability measures and integrity officers that municipal councils have the express authority to employ or appoint. Section 223.3(1) provides the municipality with the legislative authority to appoint an Integrity Commissioner and outlines the basic powers and responsibilities of that office. As Integrity Commissioner, I have the powers of inquiry and delegation as well as a duty of confidentiality and reporting requirements as follows:

- I report directly to Council on matters related to the Code of Conduct and other policies, rules or procedures related to ethics for Council and/or local boards;
- I have the power to undertake investigation into complaints alleging contraventions of the applicable code of conduct while respecting confidentiality; and
- My reports are public and I am permitted to disclose necessary information related to the findings while maintaining confidentiality. I can make recommendations to City Council relating to Code of Conduct breaches, but only Council can sanction one of its Members.

Council also has the authority to assign additional powers and duties to the Integrity Commissioner.

LEGISLATIVE MANDATE AS REGISTRAR FOR LOBBYING MATTERS

As noted earlier, City Council has assigned the duties of Lobbyist Registrar to the Integrity Commissioner, as outlined in Section 223.11 of the Act.

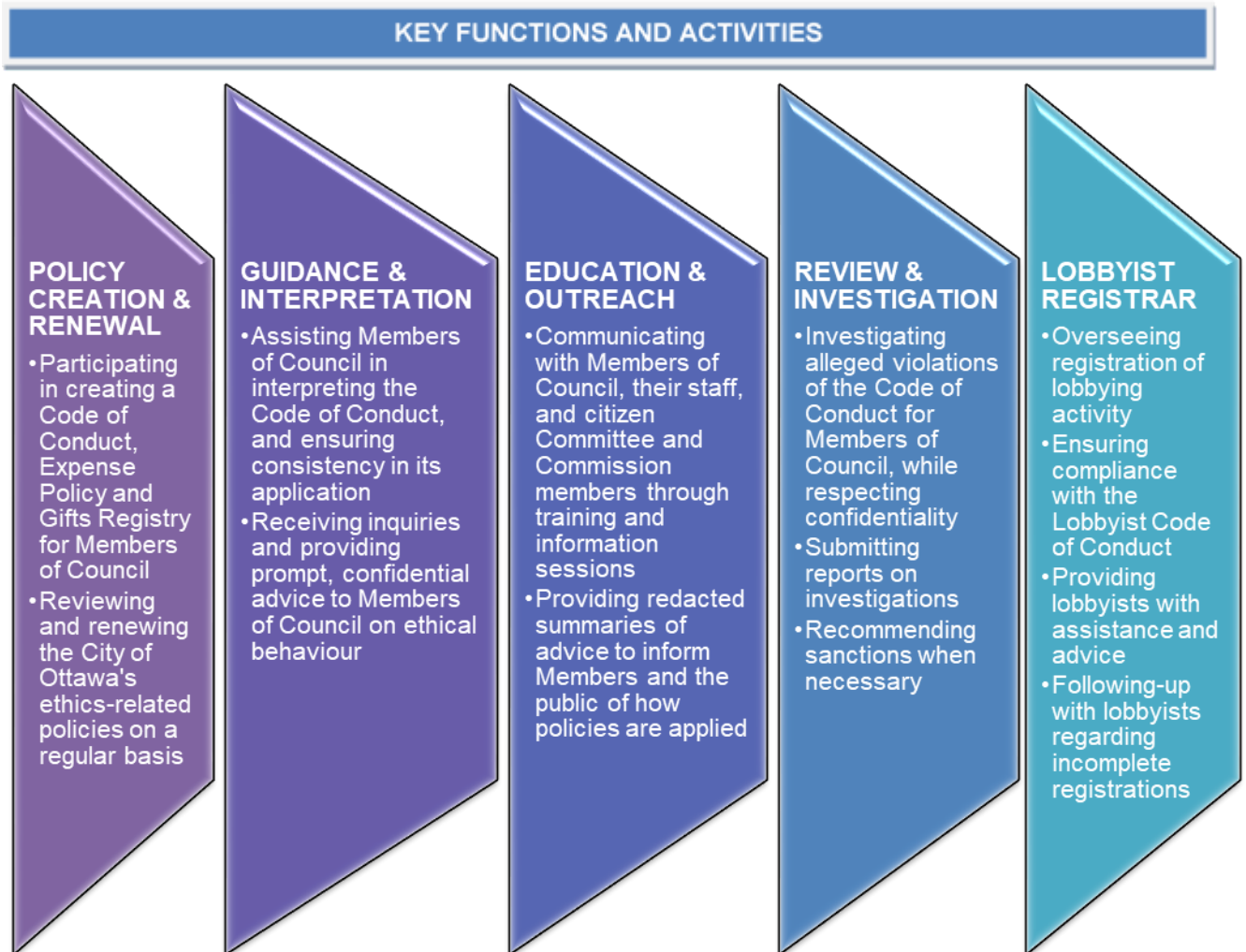
As Lobbyist Registrar, I am responsible for the oversight and administration of the Lobbyist Registry. I have both an educational and compliance role in this respect.

- I have similar powers as noted above to undertake investigation into complaints alleging contraventions of the Lobbyist Registry By-law or the Lobbyists' Code of Conduct, again while respecting confidentiality.
- In this case, however, City Council has delegated to the Registrar the discretion and the power to impose sanctions for noncompliance of the By-law.

LEGISLATIVE MANDATE AS MEETINGS INVESTIGATOR

Except as provided in Section 239 of the Act, all meetings of Council, its committees or local boards shall be open to the public. As Meetings Investigator, my authority is outlined in Section 239.2 and is primarily initiated on a complaint basis. However, in collaboration with the City Clerk and Solicitor, who continues to be the principle resource for all questions related to closed meetings, I am also available to provide some guidance on best practices related to open meetings.

KEY FUNCTIONS AND ACTIVITIES OF THE OFFICE



Lobbyist Registry

MANDATE

As Lobbyist Registrar, the Integrity Commissioner is responsible for general compliance of the By-law in addition to oversight and administration of the Lobbyist Registry.

The Registry is an online tool that documents instances of substantive communication, such as telephone calls, meetings, correspondence or e-mails, between those who lobby and Members of City Council or City staff in a centralized database that is easy to access and search by the public and interested stakeholders.

The requirements of the Registry and the position and duties of the Lobbyist Registrar are set out in By-law 2012-309 which was approved in accordance with Section 223.9 of the *Municipal Act, 2001*.

OVERVIEW

Implementing a Lobbyist Registry for the City of Ottawa was one of the key components of the Accountability Framework for Members of Council, an initiative led by Mayor Jim Watson and supported by the 2010-2014 City Council as one of its first items of business.

At its meeting of July 11, 2012, Council approved the establishment of the Lobbyist Registry and a Lobbyist Code of Conduct, as well as discussed and approved key elements of the Lobbyist Registry By-law. On August 29, 2012, Council enacted and passed By-law 2012-309 establishing both the Registry, and the position and duties of the Lobbyist Registrar.

The approved Lobbyist Registry By-law incorporated direction received by Members of Council, community representatives, interested stakeholders and the public. The outcome was a Lobbyist Registry that is simple yet comprehensive, efficient and easy to use yet cost effective.

Following Council approval, City staff proceeded to build the Registry without delay. Guy Giorno, recognized as a leading expert on lobbying legislation and lobbyist registration law, acknowledged this achievement, "Civic officials made history by achieving successful implementation – including a functioning registry – within only nine weeks. Canadian governments (e.g. City of Toronto) typically take a full year to launch

lobbyist registries. Of 10 broad-based lobbying laws in the country, only one was implemented more swiftly than Ottawa's."¹

In keeping with Council's direction, the Lobbyist Registry was also developed within existing budgets and resources. Information and Technology staff developed the application in-house by re-purposing an existing application to create a simple, user-friendly system.

Upon the September 1, 2012 official launch of the Lobbyist Registry, Ottawa became the second Canadian municipality to establish a formal Lobbyist Registry and the first to do so voluntarily (the City of Toronto was the first municipality, and following a lengthy and expensive judicial inquiry, are mandated to have a Lobbyist Registry under the *City of Toronto Act, 2006*). Ottawa citizens and interested stakeholders now have access to information regarding interactions between those who lobby and Members of City Council or City staff.

Several features of the City of Ottawa's Lobbyist Registry set it apart from other municipal, provincial, and federal registries. For example, Ottawa's Registry requires that every individual employee of a company file his or her own reports of lobbying activity. In contrast, under Canadian federal law, a company CEO files one lobbying report for all employees who undertake lobbying activity. In another example, a lobbyist must report any and all activity, as the City of Ottawa's legislation contains no minimum threshold for lobbying disclosure. In some Canadian jurisdictions, lobbying is only reported when the combined volume of employees' lobbying exceeds a certain number of hours per year, or a percentage of the employment time of one individual. Additionally, users of the City of Ottawa's Registry are not required to complete any registration material in hard copy, as is required when registering as a lobbyist with the Province of Ontario. A first-time user of the City of Ottawa's Lobbyist Registry can register online in a matter of minutes, and an individual need only register once. Finally, in recognition that not all lobbying communication is planned and so as not to unnecessarily restrict business conducted with public office holders, the City's Lobbyist Registry does not require pre-registration. Lobbying communication must simply be registered and become transparent within 15 business days of occurring, regardless of how, when or where lobbying occurs. While the Registry is comprehensive as it captures all lobbying, registration and reporting is kept simple.

¹ "Municipal Lobbyist Registry Now Operational: Broad Impact on Ottawa Businesses" September 2012

Despite some initial technical issues with the Registry, City staff and I have received positive feedback on the Lobbyist Registry. Many users have found it straightforward and quick to register as a lobbyist, as well as to log lobbying activity. Users have also reported that it is easy to search for lobbying activity undertaken by others.

OPERATIONS

The Lobbyist Registry By-law requires that individuals register with the Lobbyist Registry and disclose substantive lobbying communication, such as telephone calls, meetings, correspondence or e-mails, within 15 business days of the communication taking place.

Lobbying is defined as “communication with a public office holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a Ward Councillor or staff member acting under delegated authority.”

The City of Ottawa’s Lobbyist Registry is designed to require as little administrative oversight as possible. The application is designed to allow users to create a profile and begin entering lobbying activity immediately. The only administrative oversight applied at this stage is a quick verification of each profile before the information is pushed to the live site.

While this process has led to some challenges in terms of the quality of some entries, it has been successful in mitigating the resources required to support the Lobbyist Registry. I also firmly believe that the City’s Lobbyist Registry is appropriately designed to place the onus of transparency on the individual seeking to influence, while conferring to the public office holders the duty and responsibility to report noncompliance.

Since the launch on September 1, 2012, the Lobbyist Registry has faced a few obstacles. From the outset, the system did encounter some technical issues. In order to avoid multiple disruptions to the application, a comprehensive update was launched in April 2013. Changes included: updates to the interface to provide more clarity and to bring the application into compliance with accessibility standards; ability to create profiles and register clients with international addresses; and enhancements anticipated to reduce/eliminate connection errors. Following the release, the Office observed a notable reduction in complaints. Some further technical issues have been uncovered

since this release and staff are preparing for a subsequent release at the time of this report.

Figure 1: Registration Activity

September 1, 2012 - September 30, 2013	
Total Registered Lobbyists	748
Consultant Lobbyists	464
In-house Lobbyists	247
Voluntary, Unpaid Lobbyists	37
Total Lobbying Files	786
Total Lobbying Activities	1958

Figure 2: Total Lobbying Files (by month)

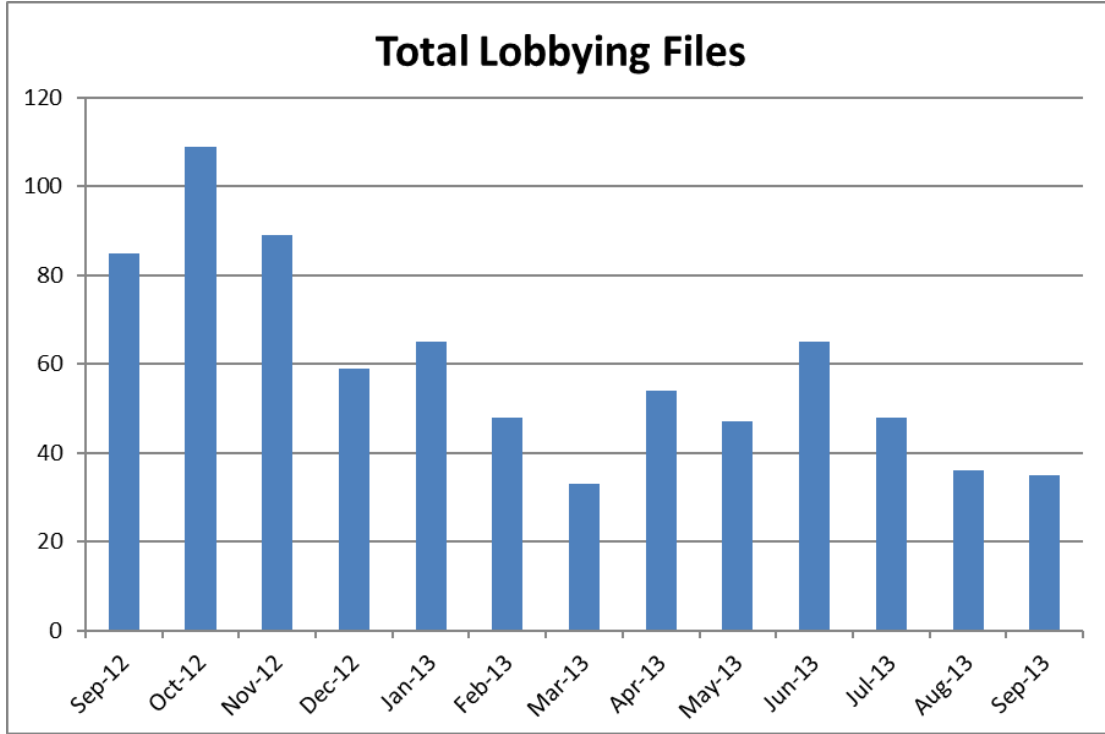


Figure 3: Total Lobbying Activity (by month)

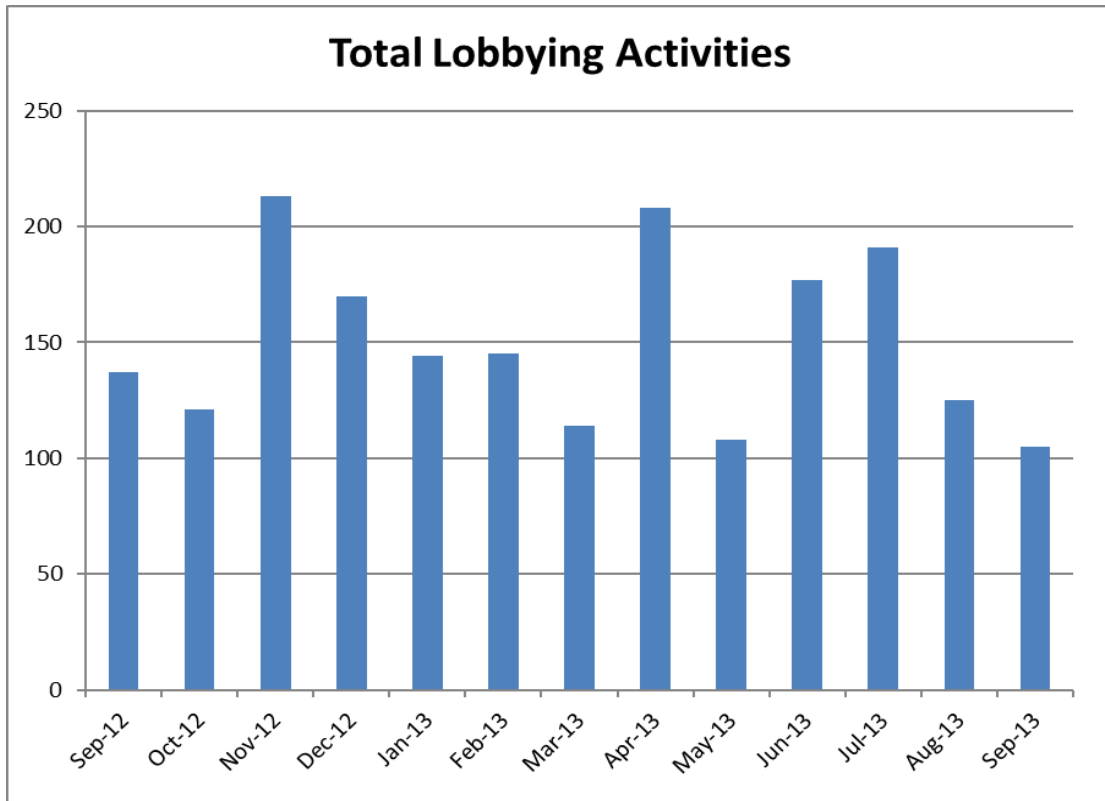
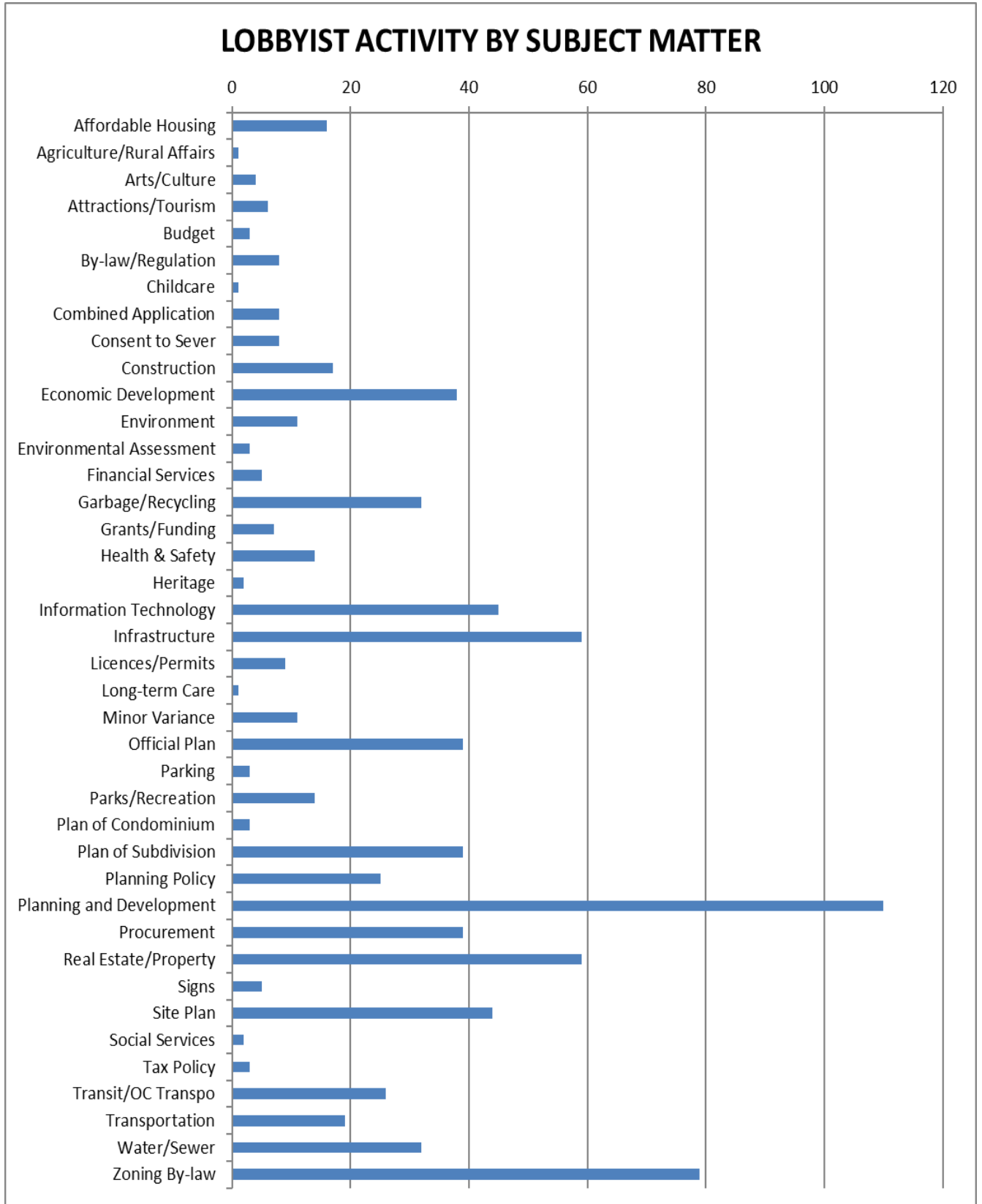


Figure 4: Lobbyist Activity by Subject Matter



CONCLUSION

The Lobbyist Registry By-law has been in effect for just over one year. In that year, Members of Council, City staff, affected stakeholders and individuals conducting business with the City have undergone a significant culture change. The establishment of the City's Lobbyist Registry was not the result of a scandal or a perception of unethical behaviour but rather a significant step forward in enhancing transparency and accountability at the City of Ottawa. The City of Ottawa's Lobbyist Registry is designed not to regulate lobbying activity but rather as a means of adding a layer of transparency to conversations and interactions that occur outside of the public domain.

Over the course of the past year, I have observed an overall desire to comply with the By-law despite the added responsibility it has placed on both those who lobby and those who are lobbied. I have further observed evidence that the information disclosed in the Lobbyist Registry has been useful for various stakeholders including the media and the public.

In preparation of this report, I was tasked with addressing the matter of dual disclosure. At the July 6, 2012 joint meeting of the Governance Renewal Sub-Committee and the Finance and Economic Development Committee where the Lobbyist Registry was considered and recommended to Council for approval, the Joint Committee directed that the Integrity Commissioner "bring forward recommendations with respect to Councillors' voluntary self-disclosure when a report come forward on an annual review of the operations of the Lobbyist Registry." In May 2013, as part of the Code of Conduct for Members of Council, Council approved an obligation to review the Lobbyist Registry on a monthly basis to ensure that instances where they have been lobbied have been registered:

IX. Conduct Respecting Lobbying

Members of Council, as public office holders, are routinely approached by various individuals attempting to influence decisions before Council or under the delegated authority of the Ward Councillor. While lobbying is an acceptable practice, disclosure of lobbying activities enhances the transparency and integrity of City business.

In accordance with the City's Lobbyist Registry, Members of Council shall review the Lobbyist Registry on a monthly basis to confirm that instances where they have been lobbied on a particular matter, including the specific matter and date, have been registered. Where lobbying activity has not been disclosed, the

Member shall first remind the lobbyist of the requirement to disclose and, should the activity remain undisclosed, advise the Integrity Commissioner of the failure to disclose.

Further, Members of Council should ensure that individuals who are lobbying them are aware of their requirement to register as required under the requirements of the Lobbyist Registry. Members of Council should not knowingly communicate with a lobbyist who is acting in violation of the requirements of the Registry. If a Member of Council is or at any time becomes aware that a person is in violation of the rules related to lobbying, the Member should either refuse to deal with the lobbyist or, where appropriate, either terminate the communication with the lobbyist at once or, if in the Member's judgment it is appropriate to continue the communication, at the end of the communication, draw that person's attention to the obligations imposed by the Registry and report the communication to the City Clerk and Solicitor and to the Integrity Commissioner.

Unless pre-approved by the Integrity Commissioner, the acceptance of any gift, benefit, or hospitality from lobbyists with active lobbying registrations or from their registered clients or their employees by Members of Council or their staff is prohibited.

The principle here is to ensure that companies and individuals who may be seeking to do business with the City do not do so by giving gifts or favours to people in a position to influence vendor approval or decision-making.

The acceptance of sponsorships for events supported or organized by Members of Council is governed by the *Community, Fundraising and Special Events Policy*.

As outlined in the provision, Members have an obligation to follow up where instances of lobbying have not been disclosed and advise me if the lobbying activity remains undisclosed. At this point in time, I am satisfied with the manner in which Members of Council have been monitoring the Lobbyist Registry and advising my Office when they believe a lobbying communication has gone unregistered.

Next Steps:

At present, I am not recommending any changes to the Lobbyist Registry By-law. Considerable effort has been made over the course of the first year to educate and promote the Lobbyist Registry and these efforts will continue in the upcoming year as I

continue to observe misunderstanding both by those who lobby and those who are lobbied. However, my primary goal will be to promote and encourage greater compliance where I will be focusing on both the quality of entries in the Lobbyist Registry as well as compliance with the 15 business day deadline for entering lobbying activity.

Integrity Commissioner

MANDATE

The statutory role of the Integrity Commissioner is set out in Section 223.2 of the *Municipal Act, 2001*:

Integrity Commissioner

223.3(1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an Integrity Commissioner who reports to council and who is responsible for performing in an independent manner the functions assigned by the municipality with respect to,

- (a) the application of the code of conduct for members of council and the code of conduct for members of local boards or of either of them;
- (b) 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 or of either of them; or
- (c) both of clauses (a) and (b).

EDUCATION

In addition to my statutory role as Integrity Commissioner, I have a responsibility to provide education and advice on the application of the Code of Conduct. In performing this role, I have taken inspiration from the Dean of the Osgoode Law School, who served as Interim Integrity Commissioner for the City of Toronto in 2008-2009, and is currently the Open Meetings Investigator for the City of Toronto:

“... the Ontario integrity commissioner, for example, would say the most significant part of her work is the advice-giving, which runs the spectrum between someone saying they want to go to an event, here's who's sponsoring it, and asking for advice on whether they should go. Current office holders, in other words, get that kind of advance ruling quite often. Some of the legislation and/or codes of conduct will specify that, when advice is given in that context, the politician or office holder has the right to rely on it. In other words, a different view won't then be taken if a complaint is brought.

It is in a sense like an insurance policy. It does put the commissioner in a position of having to make that call, and it's not always an easy call to make because the glare of public scrutiny afterwards may in fact reveal a different

view. Again, the safety valve is based on the information at the time, so it's not open to that minister to be partial in the disclosure, get a favourable ruling, and then feel somehow clear to do something which, if the fullness of it had been revealed, might have led to a different result. So it's only as good as the disclosure and transparency of that.

I actually think it's a much better system. What we don't want is just a system set up to catch people. We want a system that's set up to make people work more effectively in the public interest, so it's probably where I differ from members around that table. This came up, of course, with another integrity commissioner not long ago. If someone hasn't been prosecuting, I'd ask, what have you been doing? Some commissioner who hasn't been prosecuting, but has been engaging in educating politicians and dealing with them on an advisory basis and leading to much better conduct, may be in fact a success story. So it's not, in other words, just the number of complaints and investigations and outcomes by which we should judge the effectiveness of an accountability officer. It's how the culture is changing and whether the public interest is served. That approach to advance rulings and advice-giving is key.”

- Dr. Lorne Sossin, Dean, Osgoode Hall Law School²

OVERVIEW

The Code of Conduct for Members of Council came into effect on July 1, 2013. The City of Ottawa Code of Conduct is based on three basic principles:

- That elected officials make decisions with an open mind, with concern for the public good and not personal benefit and without giving preferential treatment to family, friends and supporters;
- That elected officials should be seen to be open about the manner in which they perform their role as Members of Council, with proactive disclosure being an important tool to increase public trust; and
- That elected officials are accountable to their constituents.

The Code of Conduct applies to Members of Council and citizen members of the Transit Commission and Built Heritage Sub-Committee (when acting in their official capacity).

² Dr. Lorne Sossin, Dean, Osgoode Hall Law School, Study on the Statutory Review of the Conflict of Interest Act by the Standing Committee on Access to Information, Privacy and Ethics (February 13, 2013): 1720 – 1725.

Anyone who identifies or witnesses behaviour or an activity that they believe to be in violation of the Code of Conduct may pursue the matter either through the informal or formal complaint procedures. All complaints received are handled in accordance with the Complaint Protocol. There is no fee charged for making a complaint.

COMPLAINT INVESTIGATION AND ADJUDICATION

Since the Code of Conduct for Members of Council came into force on July 1, 2013, I have received three complaints. The first complaint was deemed outside my jurisdiction and no further action was taken. The second complaint related to a matter between a Member of Council and a staff member and was resolved through the informal process. The third complaint relates to a matter between a Member of Council and a constituent and at the time of this report is still pending.

INQUIRIES AND ADVICE

When City Council established the position of Integrity Commissioner, a significant emphasis was placed on the role of the Integrity Commissioner to provide advice and education. Since the enactment of the Code of Conduct and its related policies on July 1, 2013, many Members of Council and their staff have taken advantage of this new service offered by the office.

The following are samples of inquiries I have received and the interpretation or advice that has been provided. The redacted summaries have been provided in an effort to ensure the Code is applied consistently and to assist Members with applying the Code to real life situations.

It is important to note that each inquiry is accompanied by its own specific context and facts. The following anonymized summaries should not be relied upon as rulings nor be considered a substitute for calling or writing my office when in doubt.

Representing Constituent/ward interests

Inquiry:

A local community organization asked a Member of Council to provide a letter of support for funding from a provincial government agency. Does writing a letter of support contravene the Code of Conduct for Members of Council?

Interpretation:

As long as the targeted agencies do not have a quasi-judicial body, writing letters of support on behalf of community groups or organizations does not contravene the Code of Conduct. The Member was provided with some guidelines intended for writing letters of support and recommendation for community organizations:

- Do not write a generic letter. Address the letter to a specific individual or organization, not “To Whom it May Concern.” In addition, refer specifically to the organization and to the reasons why support is being offered.
- So as not to lose control over the use of the letter, it is best to address and send the letter directly to the grant-awarding body.
- If the letter is being written in support of a community organization, the letter can be on constituency office letterhead.
- Finally, provide a letter of support for the organization only if you feel you possess enough knowledge of the requesting organization.

Tickets

A significant portion of the inquiries received have related to the rules around the acceptance of tickets and the Gifts Registry. This is understandable since the new Code of Conduct came into force only on July 1, 2013. The guidelines around the acceptance of tickets as outlined in the Code of Conduct are as follows:

- Tickets/hospitality/benefits may not be accepted from lobbyists or their clients and employees with active lobbying files;
- Tickets are limited to two tickets for up to two events from one source in one calendar year; and
- A ticket with an estimated value of \$30 or more (that is not exempted based on the Member’s representative role) requires disclosure in the Gifts Registry. Tickets listed in the Gifts Registry must also include the individual who attended with the Member (if applicable).

In determining whether an invitation/ticket could be accepted or required disclosure, each interpretation involved the following analysis:

- Does the source have an active file in the Lobbyist Registry?

- Does the estimated value of the ticket or invitation exceed the \$30 threshold?
- Does the invitation relate directly to the Member's representative role?
- Is the invitation limited to two tickets?
- Has the Member received and accepted tickets to one or more events from this source?

Inquiry:

Members of Council were offered tickets to a major international performance event. Under the Code of Conduct, Members are required to disclose all gifts, benefits, hospitality and sponsored travel received which individually exceed \$30 from one source in a calendar year. Event organizers, however, declined to provide a value for the tickets. If Members accept tickets, should they list them in the Gifts Registry, and, if so, how should they determine the value of the tickets?

Interpretation:

Acceptance of the tickets requires disclosure as attendance is not directly related to the role of a Member of Council. Hospitality received that is directly connected to the invitation, such as food and beverages provided by the event, does not require additional disclosure.

As the organizer did not provide a value for the tickets, value of the tickets could be estimated according to where the Member is seated and the value of tickets as provided on the event's website.

Finally, if a Member accepts hospitality or a benefit in excess of \$30 at the major international performance event that is beyond that which is offered by the event, this supplementary hospitality requires disclosure in the Gifts Registry.

Inquiry:

A Member of Council received four tickets to an event. Under the Code of Conduct, Members are limited to two tickets for up to two events from one source in a calendar year. Can the Member use two of the tickets and donate or give away the remaining two tickets?

Interpretation:

Whether the Member chooses to use the tickets personally or donate/give away the tickets, the Member remains limited to two tickets for up to two events from one source in a calendar year. If the Member receives more than two tickets to an event, the additional tickets should be returned to the source.

Similarly, if a Member of Council receives tickets to an event (valued at more than \$30 each) and does not wish to attend, the tickets should be returned to the source or they will require disclosure in the Gifts Registry.

Inquiry:

Members of Council received a package of tickets to an annual exhibition show/fair. While the tickets are valued at less than \$30 each, each package included approximately ten tickets. Are Members of Council permitted to accept these tickets under the Code of Conduct?

Interpretation:

The Code of Conduct and the Gift Registry were not designed to require disclosure of this type of ticket. The ticket disclosure threshold is \$30 per ticket. The tickets each Member received for the exhibition show, and other similar tickets, can be disposed of as the Member chooses (e.g. giving them away to constituents, charities etc.). The Member may also return them, use some of them personally or throw them out.

Inquiry:

Members of Council received tickets to a VIP event launching a local music festival. The City of Ottawa was an official sponsor of the music festival. How does the Code of Conduct apply to these tickets?

Interpretation:

Members were advised that, as the City is a sponsor of the event and all Members of Council had been invited on this basis, tickets to the VIP event were considered part of their role as elected officials/community leaders. The tickets were not only permitted under the Code of Conduct but exempt from disclosure. Similarly, any hospitality received that was directly connected to the invitation (e.g. food and cocktails provided by the event) was exempt and did not require disclosure.

It is important to note that this exemption only pertained to the invitation to the VIP event. If Members accepted an invitation to a hospitality suite for another show/day, those tickets required disclosure in the Gifts Registry as part the Members' obligations under the Code of Conduct.

Further, any hospitality or benefit in excess of \$30 at the VIP event that was beyond that which was offered by the event required disclosure in the Gifts Registry.

Inquiry:

A Member of Council receives an invitation to an event as an elected official and is also invited as a companion of another guest. The event requires disclosure under the Gifts Registry. If the Member chooses to attend the event as the companion of another guest, does the Member have to declare the invitation?

Interpretation:

Where a Member of Council has been invited to an event in their capacity as an elected member of Ottawa City Council, regardless of whether they choose to accept the invitation or attend as a companion of another guest, the Member is bound by the provisions of the Code of Conduct for Members of Council.

In effect, the same rules of disclosure in the Gifts Registry would apply to the Member regardless of how they choose to attend this event.

Gifts

Inquiry:

A group of residents wanted to provide their Councillor with a gift basket (valued over \$30) as their thank you for work on a very contentious issue that had been ongoing in the ward for a few years. If accepted, is the Councillor required to list a gift from the community with the Gifts Registry?

Interpretation:

Yes, if the Councillor chooses to accept the gift valued at over \$30, it would require disclosure in the Gifts Registry. The Registry is for disclosure of all gifts, benefits or hospitality from any source.

Benevolent Activities

Inquiry:

A lobbyist received a solicitation for funds for an event which a Member of Council was acting as honorary chair. The event was organized by a community association and the call letter was issued by the Organizing Committee and not the Member of Council.

Interpretation:

This event was organized by a community association and the Member acted as the honorary chair. All funds went directly to the expansion project of a local community centre.

Sponsorship or donations to this project are not captured by the Lobbyists' Code of Conduct nor the Council's Code as such donations or sponsorships go directly to support the project. The community association organizes the event and directs the funds to the project.

The Member was not directly involved in soliciting funds and was at arm's-length from the fundraising campaign. The Councilor and the event were in compliance with the Code and its related policies.

Lobbyists and their clients with active registrations may contribute to these kinds of community activities if they so wish.

CONCLUSION

I have no recommendations related to the Code of Conduct for Members of Council at this time. I will continue to focus on providing education and advice in the upcoming year.

Meetings Investigator

MANDATE

The position of Meeting Investigator was established by Council in November 2007 in response to changes to the *Municipal Act, 2001*. Section 239 of the Act permits closed meetings of City Council, a local board or a committee of either, to discuss the following:

1. The security of the property of the municipality or local board
2. Personal matters about an identifiable individual, including municipal or local board employees
3. A proposed or pending acquisition or disposition of land by the municipality or local board
4. Labour relations or employee negotiations
5. Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board
6. Advice that is subject to solicitor-client privilege, including communications necessary for that purpose
7. A matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.

Further, meetings of City Council, a local board or a committee of either may be closed to the public if:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee.

The Act further requires City Council or the local board to state by resolution that a closed meeting will be held and state the general nature of the matter to be considered at the closed meeting. City Council and local boards are also required to record, without comment, all resolutions, decisions and other proceedings of both open and closed meetings.

Section 239.1 of the Act provides the public with a means to question the appropriateness of a closed meeting. Section 239.2 authorizes the appointment of a person or body, independent of the municipality, to investigate any complaint that

Council or one of its committees has breached the prescribed rules respecting open meetings:

Investigator

239.2 (1) Without limiting sections 9, 10 and 11, those sections authorize the municipality to appoint an investigator who has the function to investigate in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under subsection 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation.

Powers and duties

(2) Subject to this section, in carrying out his or her functions under subsection (1), the investigator may exercise such powers and shall perform such duties as may be assigned to him or her by the municipality.

Matters to which municipality is to have regard

(3) In appointing an investigator and in assigning powers and duties to him or her, the municipality shall have regard to, among other matters, the importance of the matters listed in subsection (5).

Same, investigator

(4) In carrying out his or her functions under subsection (1), the investigator shall have regard to, among other matters, the importance of the matters listed in subsection (5).

Same

(5) The matters referred to in subsections (3) and (4) are,

- (a) the investigator's independence and impartiality;
- (b) confidentiality with respect to the investigator's activities; and
- (c) the credibility of the investigator's investigative process.

OVERVIEW

Anyone wishing to question the appropriateness of a meeting of Council, a committee of Council or a local board (with some exceptions) that was closed in full or in part to the

public must simply complete and submit the [required form](#) to the City Clerk and Solicitor. Upon receipt of the form from the City Clerk and Solicitor's Office, the Meetings Investigator will decide whether an investigation is warranted and if so, conduct an investigation and submit any findings and recommendations to an open meeting of City Council or the local board.

There is no fee required for submitting a request for investigation.

I officially took over the role as Meetings Investigator when I was appointed Integrity Commissioner for the City of Ottawa on September 1, 2012. Prior to my appointment, the role of Meetings Investigator was fulfilled first by Mr. Douglas Wallace and then, M. Pierre Pagé. As part of my orientation, both Mr. Wallace and M. Pagé provided me with valuable briefings on the legislated open meeting requirements, the role and responsibilities of the Meetings Investigator and City Council's demonstrated commitment to conducting the majority of its business in open session.

Since my appointment in September 2012, I have likened my experience as Meetings Investigator to that of the well known lonely appliance repairman. Due to Council and staff's commitment to open meetings and making as much information available publicly as possible, I have not received many concerns in this regard. In fact, shortly after my appointment I received the one and only complaint for both 2012 and 2013 and that complaint was deemed outside my jurisdiction as Meetings Investigator, since the entity complained of is not covered by the *Municipal Act, 2001*.

I have observed that City Council and City staff have continued to demonstrate their commitment to open meetings through progressive enhancements to practice and procedures. City Council and its Committees went into closed session a total of five times in 2012 and only once in 2013 (as of September 30, 2013). All but one of the closed sessions pertained to collective bargaining.

CONCLUSION

I have no recommendations related to open and closed meetings at this time.

Outreach, 2014 Goals and Financial Statement

EDUCATION, OUTREACH AND MEDIA RELATIONS

In my first year as the new Integrity Commissioner for the City of Ottawa, I have been relatively busy educating stakeholders and promoting City Council's Accountability Framework. As will be noted in my goals for 2014, I would like to place an emphasis on education in the coming year. Below is a list of events that took place in the last year:

Meetings with Stakeholders

- One-on-ones with all Members of Council
- Orientation sessions with senior City staff (e.g. City Manager, City Clerk and Solicitor, etc)
- Meetings with representatives of the following organizations/associations:
 - Consulting Engineers of Ontario
 - Greater Ottawa Homebuilder's Association

Education

- Lobbyist Registry Stakeholder Session and Presentation; November 20, 2012
- Code of Conduct and related policies training session for Members of Council and their staff; June 20, 2013 and June 24, 2013
- Code of Conduct and related policies training session for Mayor's Office; July 22, 2013
- Code of Conduct and related policies training session for Citizen Commissioners; August 13, 2013 and August 15, 2013

Outreach and Presentations

- Presentation on Lobbyist Registry to Community Health Resource Centres Executive Directors; November 20, 2012
- Presentation on City of Ottawa and Lobbyist Registry to the University of Ottawa (Ethics class); November 26, 2012
- Alliance to End Homelessness Ottawa Presentation; March 8, 2013
- Presentation to Rob Shephard's Ethics class at Carleton University; March 25, 2013

- Presentation to Coalition pour prévenir l'itinérance des francophones d'Ottawa (CPIFO); June 11, 2013
- Presentation on Accountability Framework to Chinese delegates; August 21, 2013
- Presentation on Accountability Framework to Clerk's Executive Team, Senate of Canada; September 27, 2013

Media Relations

- Interview with Michael Harris - iPolitics; October 1, 2012
- Rogers TV avec Ginette Gratton; aired April 30, 2013
- Interview with YourHamiltonBiz.com (Saira Pessner); May 27, 2013
- Interview with Talk Ottawa; aired June 13, 2013
- Interview with Lobby Monitor; published August 20, 2013

Conferences

- Ontario Integrity Commissioner Group Conference in Toronto; October, 2012
- Office of the Commissioner of Lobbying Conference; February, 2013
- Municipal Integrity Commissioners of Ontario, Waterloo; June, 2013
- Annual Conference of Canadian Lobbying Registrars, Québec; September, 2013

GOALS FOR 2014

"I have gained this by philosophy: that I do without being commanded what others do only from fear of the law."

— attributed to Aristotle

The original staff report recommending the establishment of the position of Integrity Commissioner anticipated the nature of the office in its first year, and beyond. It stated that the first 12 months of the Integrity Commissioner's mandate would require more time than in the future, with the emphasis in the first year on advisory and educational roles.

Indeed, this year the groundwork has been laid for a strong framework that will enable the City of Ottawa to conduct business in an open and transparent manner. Ottawa City Council is in the fortunate position of implementing an Accountability Framework absent of a specific breach of ethical behaviour. In the coming years, I believe that my role in providing education and advice will only continue to reduce the need for my complaint and investigation functions.

My goals for the upcoming year are summarized in the three following categories:

Education

Public education and stakeholder outreach will remain a fundamental component in my strategy for achieving compliance with the Lobbyist Registry By-law.

My Office will begin to more proactively communicate with our stakeholders, including members of the lobbying community, public office holders and members of the general public, to raise awareness of the aims and provisions of the Lobbyist Registry.

Having a full year of experience, we can now issue definitive interpretation bulletins on best practices and specific issues and post them on the website.

Compliance

In addition to further education, more emphasis on compliance will also be a priority. We will develop more reporting tools designed to ensure and audit compliance with the Lobbyist Registry By-law and publish interim reports on the website.

Recommendations for legislative improvements

2014 is an election year for Ontario municipalities. It is expected that there will be more interest in the Accountability Framework's components during that period. My Office will continue to focus on providing timely and expert advice to help public office holders and Members meet their obligations under the *Municipal Act, 2001*, the Code of Conduct and the Lobbyist Registry.

It is expected that the new 2014-2018 City Council will undergo the customary end of term/beginning of term governance review. To that end the Integrity Commissioner's 2014 Annual Report will contain recommendations for legislative and policy changes relating to the Accountability Framework's components under my jurisdiction.

FINANCIAL STATEMENT

The Integrity Commissioner's remuneration consists of a \$25,000 annual retainer and a per diem of \$200 per hour to a daily maximum of \$1,000.

The following is a breakdown of the period of September 1, 2012 to August 31, 2013.

Figure 5: Financial Breakdown (September 1, 2012 to August 31, 2013)

	Sept. 2012	Q4 2012	Q1 2013	Q2 2013	Jul./Aug. 2013	Total
Retainer	\$25,000	-	-	-	-	\$25,000
Salary*	\$10,837	\$40,297	\$26,508	\$21,828	\$17,756	\$117,226
Ancillary Costs (parking, cell phone, business travel)	\$3,700 (start-up costs)	\$1,693	\$1,153	\$1,507	\$762	\$8,815
Hours Logged	53.25 hrs	198 hrs	130.25 hrs	107.25 hrs	87.25 hrs	576 hrs

*includes tax less eligible municipal rebates

As previously noted, it was anticipated that the first twelve months of my mandate as Integrity Commissioner would require more time than in the future, with the emphasis in the first year on my advisory and educational roles.

In the upcoming year, and consistent with the part-time status of the position, I expect that my average workload will decrease to a monthly average of 25 hours.