

NOTICE OF MOTION

Integrity Commissioner Report on Complaint of Violation of Councillors’ Code of Conduct – Complaint (1)

Moved by: Mayor Miller

Seconded by: Deputy Mayor Feldman

“**WHEREAS** City Council appointed David Mullan as the Integrity Commissioner for the City of Toronto to provide independent and consistent complaint prevention and resolution, advice, opinion and education respecting the application of the Code of Conduct for Members of Council, and other by-laws/policies governing the ethical behaviour of members, including general interpretation of the *Municipal Conflict of Interest Act*; and

WHEREAS the Integrity Commissioner has submitted a report (December 14, 2005) forwarding a response to a complaint of Violation of the Councillor’s Code of Conduct;

NOW THEREFORE BE IT RESOLVED THAT City Council consider the report (December 14, 2005) from the Integrity Commissioner, and that the report be received for information;

AND BE IT FURTHER RESOLVED THAT, in accordance with the provisions of Chapter 27 of the City of Toronto Municipal Code, leave be granted to introduce and debate this Notice of Motion at the meeting of Council on January 31, 2006.”

January 31, 2006

Attachment

According to Chapter 27 of the Municipal Code, the foregoing Notice of Motion:

Notice was previously given	
Meets Municipal Code provisions and only requires a simple majority to introduce and debate – Integrity Commissioner Complaint Protocol	(√)
Requires two-thirds to waive notice	
Requires two-thirds to re-open	
Fiscal Impact Statement provided	*
Should have Fiscal Impact Statement prior to debate Requires two-thirds to waive requirement if Council wishes to debate	*
Should be referred to the Committee/Community Council Requires two-thirds to waive referral if Council wishes to debate	
Recommendations are time sensitive	

* Deputy City Manager and Chief Financial Officer to advise

Date: December 14, 2005

To: City Council

From: David Mullan, Integrity Commissioner

Subject: Report on Complaint of Violation of Councillors' Code of Conduct (1)

Purpose:

To report on the rejection of a complaint that a Councillor violated Part XI (Discreditable Conduct) of the Code of Conduct for Members of Council ("Code of Conduct").

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that Council receive this report (including the confidential attachment).

Background:

A member of the public complained that a Councillor had treated him/her unfairly in the course of a Community Council meeting. More particularly, it was alleged that the Councillor failed to treat the complainant, who was before the Community Council as a deputant, objectively and even-handedly. Rather, the Councillor attempted to discredit her/his position by misrepresenting the extent of the opposition to the matter before Community Council both during the complainant's presentation and in the subsequent public deliberations of Community Council. The complainant asserted that this amounted to discreditable conduct in terms of Part XI of the Code of Conduct.

I investigated the complaint according to Part B ("Formal Complaint Procedure") of the Council Code of Conduct Complaint Protocol ("Complaint Protocol").

Comments:

On the basis of my investigation, I concluded that the Councillor did not engage in discreditable conduct contrary to Part XI of the Code of Conduct. There is no doubt that, during her/his questioning of the complainant, the Councillor pushed the complainant hard on her/his objections to the proposal before Community Council as well as raising the extent to which her/his opposition

was shared by others. Many of the considerable number of witnesses interviewed described it as a terse exchange in which the Councillor and the complainant had different positions on what was relevant. However, no one, including the complainant and her/his partner, was prepared to say that the Councillor was abusive. That aside, the complaint also turned on what was said to be the Councillor's minimizing and/or misstating the extent of the opposition to the project in issue during the open debate among members of Community Council that followed. However, even if the Councillor did not accurately portray the extent of the opposition, it is difficult to conclude that this would amount to discreditable conduct. Absent clear proof of deliberate lying, I would find it hard to characterize political rhetoric aimed at defusing opposition to a project that the Councillor supported as amounting to discreditable behaviour. In this instance, there was no tape recording of the proceedings, and the complainant and her/his partner were the only interviewees who came close to asserting that the Councillor had misled her/his colleagues. Everyone else saw the Councillor's advocacy of her/his position and minimizing of the opposition as no more than the usual staple of political debate in a democratic forum. Given the conflicting views as to what had taken place during the debate, I did not come close to a finding that the Councillor had deliberately misled Community Council.

Conclusions:

Council should receive this report (including the confidential attachment) rejecting the complaint.

David Mullan,
Integrity Commissioner

Attachment: Confidential Report on Complaint to City Clerk

Contact:

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