

**NOTICE OF MOTION**

**Integrity Commissioner Report on Complaint of Violation of Councillors’ Code of Conduct – Complaint (2)**

**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 (2)

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 abusive and harassing questioning which called into question inappropriately her/his credentials and that of the community group he/she represented. 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 it had not been established to my satisfaction that Councillor had engaged 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 status to represent the community group of which he/she was the

designated spokesperson, as well the credentials of the community group itself. Many of the considerable number of witnesses interviewed described it as a hard-nosed, aggressive probing of the complainant. However, only the complainant and her/his partner went so far as to state categorically that the Councillor was abusive and harassing to the extent of unfairness. Without the benefit of a recording of the proceedings and given the variation in opinion among those present and interviewed as to the nature and appropriateness of the Councillor's conduct, I am not prepared to find that the Councillor violated Part XI of the Code of Conduct. In a close case, the Councillor's response that he/she was merely fulfilling her/his "responsibility as a public official" in pressing the complainant on her/his credentials to act in a representative capacity will prevail over the complainant's assertions of abuse and harassment. Councillors should, however, remain alert to the dangers to grass roots democracy if members of the public are discouraged from appearing before Community Councils or Committees of Council because they appear to be hostile or intimidating environments.

Conclusions:

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

David Mullan,  
Integrity Commissioner

Attachment: Confidential Report to City Clerk on Complaint

Contact:

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