

NOTICE OF MOTION**Integrity Commissioner – Follow up Report on Hiring of Relatives of Members of Council in Council Offices****Moved by: Mayor Miller****Seconded by: Deputy Mayor Feldman**

“**WHEREAS** City Council at its meeting held on June 27, 28 and 29, 2006, referred Motion I(2) respecting an amendment to the Council policy on employment of relatives in Council Offices, to the Integrity Commissioner with a request that he consider the implications of the suggested policy change, and report directly to Council for its meeting on July 25, 2006; and

WHEREAS the Integrity Commissioner has submitted a report (September 19, 2006) in response to this request;

NOW THEREFORE BE IT RESOLVED THAT City Council consider the report (September 19, 2006) from the Integrity Commissioner, and the recommendation contained in the report be adopted;

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 September 25, 2006.”

September 25, 2006

Attachment

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

Notice was previously given	
Meets Municipal Code provisions – Integrity Commissioner Reporting 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: September 19, 2006

To: City Council

From: David Mullan, Integrity Commissioner

Subject: Report on Hiring of Relatives of Members of Council in Council Offices

Purpose:

To respond to a Council request that the Integrity Commissioner report on whether Council Office Staff whose relatives are elected to Council should be permitted to continue their employment.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that Council amend its June 7, 8 and 9, 2000 policy on Council Support Staff by adding the following subclause:

- (4) this policy does not affect the continued employment of Council Office Support Staff in the following circumstances:
- (i) where a member of a Councillor's staff becomes a relative of the Mayor or another member of Council as a result of election, appointment or marriage; or
 - (ii) where a member of the Mayor's staff becomes a relative of a member of Council as a result of election, appointment or marriage.

Background:

At its meeting of June 7, 8, and 9, 2000, City Council adopted the following policy on Council Office Support Staff:

- (1) no employment of relatives of Members' of Council shall be permitted within Councillors' offices and the Mayor's offices;

(2) relatives, for the purposes of this policy, shall be defined as:

- (i) spouse, including common law and same sex spouse;
- (ii) parent, including step-parent and legal guardian;
- (iii) child, including step-child;
- (iv) sibling; and
- (v) any person who lives with the employee on a regular basis;

(3) implementation of this policy shall take effect with the new term of City Council, on December 1, 2000.

At its meeting of June 27, 28, and 29, 2006, Council had before it a motion that called for an amendment to this policy which would exempt from its operation a member of Council Office Support Staff whose relative became a member of Council. It was proposed that any member of Council Office Support Staff in this position be allowed to continue employment with the existing Councillor to the end of the new Council's term.

Councillor requested the Integrity Commissioner to consider the implications of this "policy change" and report directly to Council for its meeting of July 25, 2006.

In response to this reference, I sought the views of members of Council, consulted with the Executive Director of Human Resources, and requested the City Solicitor to provide me with an opinion on whether the existing policy required termination of a member of Council Office Support Staff in these circumstances.

Those members of Council responding to my request for comment were divided on the issue though there were insufficient responses to enable me to express any view as to the overall position of members of Council. The Executive Director of Human Resources was of the opinion that the policy should not affect a person already employed as a member of Council Office Support Staff should a relative be elected to Council. In the event that it does so, Council should either change the policy generally or provide for the possibility of exemptions. The City Solicitor's opinion was to the effect that Council, in adopting the June 2000 policy, did not intend that it require the termination of the employment of a member of Council Office Support Staff who became a relative (either because of election, appointment or marriage) of a member of Council after hiring. It applies to prevent the initial hiring by a member of Council of a relative in his or her offices or the continuation of employment in the offices of a member of Council should the staff member become a relative of that member of Council.¹ The City Solicitor also provided the opinion that that interpretation was consistent with the provisions of the *Ontario Human Rights Code*.

Comments:

The motion that Council referred to me for comment called for a change in policy to allow the continued employment of a member of Council Office Support Staff should a relative of that staff member become a member of Council.

¹ In the latter situation, transfer or redeployment (rather than termination) is the preferred option.

On the basis of the City Solicitor's opinion, a change in policy is not required to achieve that objective. The current policy does not require termination in those circumstances. The person is eligible for continued employment in the offices of a member of Council who is not her or his relative. Indeed, were the policy to provide otherwise, it could well amount to a violation of the *Ontario Human Rights Code*.

Given that advice, I am of the view that the motion that Council referred to me for comment is unnecessary. It would also be unwise to court a potential Human Rights complaint by changing the policy to achieve the opposite result – a requirement that employment cease in those circumstances.

Conclusions:

The motion calling for a change in policy on the continued employment of Council Office Support Staff members who become relatives of another member of Council or the Mayor as a result of election (or appointment or marriage, for that matter) is not needed. According to the opinion of the City Solicitor, the current policy does not permit termination for that reason. Out of an abundance of caution, it would be prudent to make that clear on the face of the existing policy.

David Mullan
Integrity Commissioner

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