



**INTEGRITY  
COMMISSIONER REPORT  
ACTION REQUIRED**

**Report on Violation of Code of Conduct for Members of  
Council: Councillor Michelle Berardinetti**

<b>Date:</b>	October 23, 2012
<b>To:</b>	City Council
<b>From:</b>	Integrity Commissioner
<b>Wards:</b>	All
<b>Reference Number:</b>	

**SUMMARY**

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A member of staff complained that on November 6, 2011, Councillor Michelle Berardinetti violated Article XII (Conduct Respecting Staff) of the *Code of Conduct for Members of Council* (the "*Code of Conduct*") by discrediting the complainant, a staff member of a City of Toronto agency, on a public radio program. An investigation was conducted into the allegations and the complaint was substantiated. Councillor Berardinetti agreed to apologize to the complainant, and her apology was accepted.

**RECOMMENDATIONS**

The Integrity Commissioner recommends that:

1. City Council adopt the recommendation that Councillor Berardinetti has violated Article XII of the *Code of Conduct*, and
2. City Council not impose any sanction on Councillor Berardinetti.

**Financial Impact**

This report will have no financial impact on the City of Toronto.

## **DECISION HISTORY**

On May 1, 2012, a member of the public filed a complaint pursuant to the *Code of Conduct Complaint Protocol for Members of Council* (the "*Complaint Protocol*") and section 160 of the *City of Toronto Act, 2006* that Councillor Michelle Berardinetti violated the *Code of Conduct*.

An investigation was conducted into the complaint. This report is being brought to Council in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006* which requires the Integrity Commissioner to report to Council where a formal complaint has been sustained.

## **ISSUE BACKGROUND**

### **The Complaint**

On November 6, 2011, Councillor Berardinetti called in to a radio program hosted by another member of Council to discuss an animal sanctuary to which certain animals from the Toronto Zoo were to be transferred. Councillor Berardinetti was asked about concerns raised by some staff members in Toronto about that facility. The host of the radio program framed the issue by introducing Councillor Berardinetti as the one who had moved the motion to approve the facility. Councillor Berardinetti was asked why she believed this would be the "best move" for the animals, even though some of the staff members in Toronto were saying that City Council wasn't qualified to make that decision, that it was not good for the animals and that the facility didn't have proper accreditation.

The Councillor answered the public policy question, "is it good for the (animals)?" by pointing out a number of features that argue in favour of the decision, including:

- A number of Doctors had endorsed the sanctuary;
- The Doctors cited are leaders in the field;
- The sanctuary is a state of the art facility;
- The facility owners' experience with these types of transfers;
- The sanctuary has received endorsements from other American zoos;
- Experts around the world have given accolades to the sanctuary.

All of these points were in answer to the question at hand. They did not denigrate staff or others and were factors that the Councillor was relying upon to support her point of view on the matter. They were a legitimate part of the public policy debate.

The comments that led to the complaint were criticisms of the staff person who had posted a response on the website of the facility. These comments asserted that the complainant:

- was "completely unprofessional" in making comments;
- was "unbecoming" to make those comments;
- had embarrassed the Councillor by the stated concerns;
- said things that were "not only not true, but beyond the pale...the negative tone and the language that is unprofessional."

The complainant alleged that as a result of these words, the Councillor breached Article XII of the *Code of Conduct* (Conduct Respecting Staff) which requires members of Council to be respectful of the role of staff members. Article XII requires (among other things) that "no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff."

### **The Exchange of Documents**

On May 2, 2012, a copy of the complaint was sent to Councillor Berardinetti.

On June 5, 2012, a response was received from Councillor Berardinetti and forwarded to the complainant. On June 13, 2012, the complainant provided a further response to the Councillor's comments.

### **The Lead Up to the Radio Broadcast**

The social media comments referred to by the Councillor on the radio broadcast were made on November 3 and 4, 2011 by the complainant. They were a response to comments in an electronic newsletter dated October 31, 2011, on a website maintained by a facility to which three animals from the Toronto Zoo were proposed to be transferred. These comments had been critical of Toronto staff.

The postings did not refer to elected officials but to the writer's views and responses to others commenting on the website. The complainant did not represent the comments as being the official position of the City. Neither posting referred to any elected officials.

## **The Investigation**

The investigation involved the following steps:

- a review of all material provided by the complainant including a recording of the comments, background material to the comments and background on the issues under discussion;
- meeting with the complainant;
- meeting with the Councillor

At our meeting, Councillor Berardinetti reviewed the complainant's posting and agreed that the complainant had been expressing an opinion and that her words were not fair to the complainant. The Councillor considered the matter and subsequently apologized to the complainant in writing.

## **The Analysis**

The issue here was whether the words spoken by Councillor Berardinetti, on the broadcast in question, breached Article XII of the *Code of Conduct*. The complainant described these words as an attack on the personal and professional reputation of the complainant. This is a fair description and as such I find that the comments do constitute a violation of Article XII of the *Code of Conduct*. After reflection and a review of her comments, and the postings made by the complainant, the Councillor was willing to concede that her comments about the complainant were improper in the circumstances, and agreed to apologize to the complainant.

Elected officials have access to a wide audience. They have a responsibility to take care in their public statements, guided by the provisions of the *Code of Conduct*. This is particularly the case in their dealings with members of the public service.

Councillor Berardinetti is to be commended for considering the appropriate response and making an apology for her comments. As a result, I recommend that Council conclude that the matter requires no further sanction and adopt the report as recommended.

## **CONTACT**

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**SIGNATURE**

*Original signed by Janet Leiper*

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Janet Leiper  
Integrity Commissioner

JL/ww

**ATTACHMENT:**

Article XII (Conduct Respecting Staff) - *Code of Conduct for Members of Council*

## **Article XII – Code of Conduct for Members of Council**

### **CONDUCT RESPECTING STAFF**

Only Council as a whole has the authority to approve budget, policy, Committee processes and other such matters. Accordingly, members shall direct requests outside of Council-approved budget, process or policy, to the appropriate Standing Committee.

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of Council. Members shall be respectful of the role of staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council. Accordingly, no member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities. Nor shall any member use, or attempt to use, their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering with that person's duties, including the duty to disclose improper activity.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as Standing Committee members, participating as Chairs of Standing Committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council.