



**INTEGRITY
COMMISSIONER REPORT
ACTION REQUIRED**

**Report on Violation of Code of Conduct for Members of
Council: Mayor Rob Ford**

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

SUMMARY

On May 9, 2012, a member of Toronto City Council filed a formal complaint with the Office of the Integrity Commissioner alleging that Mayor Rob Ford had violated Article XII (Conduct Respecting Staff) of the *Code of Conduct for Members of Council* ("*Code of Conduct*") as a result of comments made by Mayor Ford on a radio program about the Medical Officer of Health ("MOH") for the City of Toronto.

This Report recommends to Council a finding that Mayor Ford breached Article XII of the *Code of Conduct*.

RECOMMENDATIONS

The Integrity Commissioner recommends that:

1. Council adopt a finding that Mayor Ford breached Article XII of the *Code of Conduct*.

Financial Impact

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

DECISION HISTORY

On May 9, 2012, a City of Toronto Councillor filed a complaint with the Office of the Integrity Commissioner 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*.

An investigation was conducted into the complaint. This report on that complaint is brought in accordance with the *Complaint Protocol* and section 162(3) of the *City of Toronto Act, 2006*.

ISSUE BACKGROUND

Investigation

The formal complaint alleged that on April 29, 2012, Mayor Ford, along with Councillor Ford, were hosts of a radio program to discuss City affairs. During the program, the Mayor and a number of members of Council discussed a report commissioned by Toronto Public Health entitled "*Road to Health: Improving Walking and Cycling in Toronto*" (the "Walking and Cycling Report"). The MOH was not present, although he had been invited to participate.

The Walking and Cycling Report,¹ made a number of recommendations, including the value of lower speed limits on City of Toronto streets for preventing pedestrian and cyclist injuries and deaths. During a discussion about the Walking and Cycling Report, both the Councillor and the Mayor criticized the recommendations in the Report and the MOH personally. Mayor Ford made reference to the salary paid to the MOH, describing it as "an embarrassment." He said that he would "look into that and try to straighten things out."

At another point in the conversation, Mayor Ford described the report as "nonsense", and then said, "I shouldn't have said that but I'm a little biased here."

Towards the end of the conversation about the report, a caller said he was "disappointed with [the Mayor's] flippant comment that you wanted to look into the issue about the Medical Officer of Health in Toronto being paid \$280 (sic), and just mention to you that there isn't a doctor in this town that would take that

¹ Available at: <http://www.toronto.ca/legdocs/mmis/2012/hl/bgrd/backgroundfile-46483.pdf>

job for less than that money." The Mayor commented, "I appreciate your call, but it's actually over \$300,000, so I guess we are going to agree to disagree, but you know what that's the great thing about democracy and I appreciate you calling in."

A copy of the complaint was provided to Mayor Ford who responded by letter dated June 12, 2012. In his reply, Mayor Ford did not dispute that he had made the comments, but asserted that they were his personal opinion and complied with the *Code of Conduct*. He characterized his remarks as his opinion that:

it was embarrassing for a senior civil servant, in this case one who earns about \$300,000 per year, to authorize the spending of over \$60,000 on a Walking and Cycling Report that is entirely outside the mandate of his agency.

The Mayor said that he did not attempt to "unduly influence or threaten" the MOH, but to speak publicly on behalf of taxpayers. The Mayor went on to state that in his view, "Taxpayers do not want Toronto Public Health freelancing in public transportation policy or even public safety issues." The Mayor said that the cost of the report was \$60,000 and should not have been authorized at a time when the City is facing extraordinary financial pressures. The Mayor wrote that his comments were truthful and were not malicious. In his reply, the Mayor questioned the motivation of the complainant for bringing forward this formal complaint.

A copy of the response was provided to the complainant, who noted that the Mayor had not responded to the substance of the complaint, which concerned the personal criticism of the MOH. In addition, the complainant disputed the comments made by the Mayor about the motivation of the complainant for the complaint. The complainant requested that this issue be addressed in any report to Council.

The investigative steps taken were as follows:

- Review of affidavit and material filed in support;
- Review of broadcast and transcription of the recording;
- Meeting with Medical Officer of Health;
- Review of the Walking and Cycling Report;
- Review of Public Health Standards;
- Review of text on the history of Public Health programs in Toronto (1883-1983);
- Meeting with complainant;
- Meeting with Mayor Ford;

- Follow-up correspondence to Mayor Ford for reconsideration of his comments and the foundation for his comments;
- Review of media reports concerning the incident.

At a meeting with Mayor Ford to discuss his reply, he acknowledged that at the time of the radio program he had not read the Walking and Cycling Report in full, although he had been briefed on it by staff. Mayor Ford acknowledged that he had not read the Ontario Public Health Standards, 2008 (the "Health Standards"), published by the Ministry of Health to guide Ontario mandatory health programs. Mayor Ford agreed to review the Health Standards and the request for an apology. A copy of the Health Standards was provided to Mayor Ford, along with the specific references to the portions of the Health Standards which appeared to apply to the Walking and Cycling Report. When asked if he had been doing anything to "look into" the salary of the MOH as he had said on the radio, the Mayor denied that this referred to the salary, but was referring to the report itself.

Mayor Ford also responded to the concern raised by his response questioning the motivation of the complainant. Mayor Ford pointed out that the complainant contacted the press to make his complaint public. The complainant further explained that the press had come to him after the Mayor made his comments on air. The complainant raised the concern that criticizing a complainant for making a complaint is also problematic behaviour.

FINDINGS

The Walking and Cycling Report

The Walking and Cycling Report in question, "*Road to Health: Improving Walking and Cycling in Toronto*" was released in April 2012. It was prepared following collaboration between Toronto Public Health and the City of Toronto Transportation Services, and describes the link between transportation and health. It addresses the costs to the City of chronic disease from physical inactivity, injury and fatalities arising from collision between cyclists and cars, and pedestrians and cars. The Walking and Cycling Report includes strategies for improving active transportation in Toronto, the health risks involved in certain forms of transportation and the significant economic benefits to certain policies encouraging active transportation and traffic interventions, including speed limits. The project advisory committee for the Walking and Cycling Report included representation from the Ontario Medical Association, the Heart and Stroke Foundation of Ontario, and the YMCA of Greater Toronto.

The Mandate of Public Health: Ontario Public Health Standards 2008 (Health Standards)

The City of Toronto has a history of public health programs dating back to 1883. The first *Public Health Act* was passed in 1884.² Over the years, medical officers tackled problems of sanitation, water quality, infectious disease, health promotion and air quality. By the 1930s, the focus had shifted to the use of research and connecting medical research to policies for prevention of ill health.³ As the challenges and needs of the community evolved, so has the nature of the work done by public health.

The present version of public health legislation is found in the *Health Protection and Promotion Act*, R.S.O. 1990 (the "HPPA"). Section 7 of the HPPA, provides for a set of Health Standards which set out the expectations for boards of health. The standards recognize that "the health of individuals and communities is significantly influenced by complex interactions between social and economic factors, the physical environment and individual behaviours and conditions." These factors are known as the "determinants of health."⁴ The Health Standards acknowledge that addressing the determinants of health is "fundamental to the work of public health in Ontario."⁵

The determinants of health include social and physical environments.⁶ Decision making and programs are required to be based upon data and information to inform decision making at the local level.⁷ Needs are established by "assessing the distribution of determinants of health, health status, and incidence of disease and injury."⁸ Public health research is mandated and may include collaboration with other organizations, as was done in the case of the Walking and Cycling Report.

One of the stated goals of the Health Standards is the reduction in the burden of chronic disease and to increase awareness about factors associated with chronic disease that may inform policy development, including the importance of creating healthy environments.⁹ The Health Standards direct boards of health to work with municipalities to support public health policies that create or enhance supports in the built environment, taking into account physical activity.¹⁰

² Heather MacDougall, *Activists and Advocates: Toronto's Health Department 1883-1983* (Toronto, 1990, Dundurn Press) 16.

³ *Ibid*, 33 and 35.

⁴ Ontario Public Health Standards, 2008, 1.

⁵ *Ibid*, 2.

⁶ *Ibid*, 2.

⁷ *Ibid*, 12.

⁸ *Ibid*, 12.

⁹ *Ibid*, 18.

¹⁰ *Ibid* 20.

Another specific aspect of the Health Standards is the requirement for boards of health to work with community partners to influence policies that address "road and off-road safety" and the prevention of injury in the area of road and off-road safety.¹¹ In this case, the Walking and Cycling Report was a collaboration with community partners and made recommendations relating to road safety. A link to the Health Standards may be found at:

http://www.health.gov.on.ca/english/providers/program/pubhealth/oph_standards/ophs/progstds/pdfs/ophs_2008.pdf

The Application of the *Code of Conduct*

Article XII of the *Code of Conduct* requires members of Council to "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 of the prospects or practice of staff, and all members shall show respect for the professional capacities of staff." A copy of Article XII is attached to this report.

The Mayor breached Article XII of the *Code of Conduct* by demeaning the professional reputation of the MOH on the radio broadcast. The Mayor called the salary paid to the MOH an "embarrassment." This unfairly demeans his professional capabilities and is therefore a breach of Article XII.

The suggestion that Mayor Ford's comments were justified by an opinion that the Walking and Cycling Report was outside the mandate of Toronto Public Health is contradicted by the specific provisions of the Health Standards. The policy recommendations and discussion contained in the Walking and Cycling Report address "road safety," "healthy environments" and physical activity." As such, these are all areas that are explicitly described as falling within the Toronto public health mandate, and by extension, an appropriate concern for the MOH.

Finally, the suggestion that the complainant was politically motivated was made without knowing the facts around how the complainant came to be asked by the media about the Mayor's comments. There was no basis to make a finding of any improper motive on the part of the complainant. The media reports reveal that the complainant offered the Mayor an opportunity to apologize after the comments were made public. This is contemplated by the *Complaint Protocol*. After no apology was forthcoming, the complainant made a formal complaint. This was the appropriate venue for this type of matter and was found to be in the jurisdiction of this office. On all of the evidence, it is apparent that the complainant was "apology-motivated."

¹¹ *Ibid*, 23.

All public officials have the ability to reach a broad audience and this is particularly true for the Mayor of Toronto. By virtue of being the Chief Executive Officer and the Head of Council under the *City of Toronto Act, 2006*, the Mayor is in a prime position to model respect for staff, to have an impact on the morale of the public service and to maintain public confidence in the public service. In this case, the Mayor's remarks arose from an incomplete understanding of the role and mandate of the MOH.

Recommendation on Sanction

On October 3, 2012, a detailed letter was sent to the Mayor setting out the summary of the applicable standards discussed above and a request that he consider retracting the comments and apologizing to the MOH. A number of follow-up contacts were made and on the afternoon of the day this report was due for filing, a letter of retraction was received. Council will be provided with an update once the letter has been shared with the complainant.

CONTACT

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SIGNATURE

Original signed by Janet Leiper

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.