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COMMUNICATION
Council Expenditure and Code of Conduct Review
Task Force – September 12, 2017
ITEM - 1

DATE: Tuesday, September 12, 2017

TO: Members of the Council Expenditure and Code of Conduct Review Task Force

FROM: Suzanne Craig, Integrity Commissioner

RE: **Recommendation to amend Commentary Rule 14 of the Code of Ethical Conduct**

I am writing today to recommend to Members of Council of the Council Expenditure and Code of Conduct Review Task Force ("Task Force") an additional change to the Code of Ethical Conduct for Members of Council ("the Code") and submit this change for discussion at the meeting of September 12th, 2017 at 1:00 p.m.

Background:

At the June 27th Council meeting, Council adopted the Finance, Administration and Audit Committee ("FAA") recommendations,

1. That consideration of this matter be deferred to the September 20, 2017 Finance, Administration and Audit Committee meeting; and
2. That the term of the Council Expenditure and Code of Conduct Review Task Force be extended to provide for additional Task Force meetings as necessary to allow further review of recommendations by Members of Council who were not part of the Task Force and that all necessary parties attend the Task Force meetings, including the Chief Financial Officer/City Treasurer and the Integrity Commissioner.

In July 2016, the Integrity Commissioner concluded a mediated settlement of an Informal Code of Conduct complaint. The Informal Complaint Procedure is in place to allow an individual to bring to the attention of a member of council, behaviour of or an activity by the member that appears to be in contravention of the Code. The informal procedure is undertaken with a view to encouraging the member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behavior or activity.

At the conclusion of the informal complaint mediation, my Office found that there was a need for greater clarity with respect to the appropriate role of Members of Council in the recruitment process for senior positions for which Council has a statutory or policy role.

Why is the Integrity Commissioner making these recommendations now?

1. I have received questions that suggest there continues to exist a lack of clarity on the appropriate role of Members of Council in the recruitment process for senior positions.

2. The Task Force has scheduled an additional meeting for the purposes of approving the Integrity Commissioner's recommended changes to the Code. Since some Members of Council continue to raise concerns about a lack of clarity with respect to what actions are allowable under the Code with respect to the role of individual Members of Council in the recruitment of senior positions, it appeared opportune that an additional suggested amendment be submitted for the Task Force to consideration prior to the final recommendations going to Council for approval.

What concern has been raised by Members of Council?

Some Members of Council have told me that they are unclear about what type of participation is included in their role in the recruitment process when Members of Council have a statutory or policy role in recruiting senior positions and what actions are "allowable" under the Code rules for their participation in the hiring of positions at the DMC or statutory positions.

What answer has been given by the Office of the Integrity Commissioner?

I have advised that actions of a Member of Council that may appear on their face, to be legitimate may for the purposes of the Code, trigger a violation of the Rules 1(c) ("Key Principles) and 7 (Improper Use of Influence) of the Code. Rule 16 of the Code contains provisions respecting contact between Members of Council and staff, as does Rule 7. A principle-based reading of Rule 1 (c) and Rule 7 culminate in the value enshrined in Rule 1(i) (another Key Principle) which requires members of Council to,

...respect the role of staff in the administration of the business affairs of the City

Rule 16 of the Code prohibits improper interactions between Members of Council and staff, as well as dealing with harassment and improper use of influence, it also more generally (in sub rule 3) requires that Members of Council be,

...respectful of the role of staff to advise based on political neutrality and objectivity and without any undue influence from any individual member or faction of the Council.

The Commentary to Rule 7 states that,

Pursuant to corporate policy, the City Manager directs City Commissioners (now Deputy City Managers). City Council and **not individual** Members of Council appropriately give direction to the City administration

It is inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Therefore, **individual** Members of Council have no role to play in influencing in any way, the hiring process for any member of staff, except for the position of Executive or Administrative Assistant to the Mayor and/or Members of Council. Indeed, this argument takes great force from the terms of the City's Hiring and Nepotism Policy...Section 1.4 of that Policy provides that:

Elected officials, appointed officers or employees shall not attempt to influence the recruitment process for any applicant unless it is for the position of Executive or Administrative Assistant to the Mayor and/or Members of Council.

Any attempt by individual members of Council to, for example, urge that an individual candidate must be put on the shortlist or to secure additions to or removals from an already determined shortlist, is prohibited. This kind of conduct amounts to inappropriate meddling and undue use of influence in terms of the Code.

Current provisions of Rule 14 of the Vaughan Council Member Code of Conduct ("the Code") states that:

1. Members shall be governed by the City's Respectful Workplace Policy.
2. Harassment of a member by another member, staff or any member of the public is misconduct,
3. Upon receipt of a complaint that relates to Rule No. 14, the Integrity Commissioner shall forward the information subject of the complaint to Human Resources who will refer it to an independent investigator.

Recommend addition to Commentary to Rule 14: (1)

Whereas the Code prescribes standards of behaviour to ensure compliance with the Code rules and the City of Vaughan hiring policies, which prohibit inappropriate meddling and undue use of influence; and,

Whereas the City of Vaughan is committed to providing a safe and respectful workplace for all employees at the City,

The Integrity Commissioner recommends the following addition to the Commentary to Rule 14 of the Code:

Commentary: *The City's Hiring and Nepotism Policy...Section 1.4 states that Elected officials, appointed officers or employees shall not attempt to influence the recruitment process for any applicant unless it is for the position of Executive or Administrative Assistant to the Mayor and/or Members of Council.*

Individual Members of Council have no role to play in influencing the hiring process for any member of staff except as indicated above. Council's role as a body is to approve the City Manager's recommendation for hiring positions at the DCM level or statutory positions, according to the City's HR and Recruitment policies.

Respectfully submitted,



Suzanne Craig
Integrity Commissioner

(1) Under Framework and Interpretation, of the Code, from time to time, additional commentary ...may be added...by the Integrity Commissioner, as she or he deems appropriate