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C H A M B E R S

Integrity Commissioner Office
for the City of Richmond Hill

BY EMAIL

Mary-Anne Dempster (maryanne.dempster@richmondhill.ca)
Deputy Mayor Perrelli (carmine.perrelli@richmondhill.ca)

cc: Stephen M.A. Huycke, City Clerk (stephen.huycke@richmondhill.ca)

November 24, 2021

Dear Ms. Dempster and Deputy Mayor Perrelli:

Re: Investigation Report for Complaint Reference Number IC-13780-0521

This is the report of the Integrity Commissioner Office concerning a complaint brought by Mary-Anne Dempster against Deputy Mayor Carmine Perrelli under the City of Richmond Hill's Council Code of Conduct ("Code of Conduct"). Pursuant to Section 223.3(1) and 223.4(1) of the *Municipal Act, 2001*, the Integrity Commissioner is responsible for investigating formal written complaints respecting alleged contraventions of the Code of Conduct.

Pursuant to a delegation dated August 12, 2021, made under section 223.3(3) of the *Municipal Act, 2001*, Charles A. Harnick delegated his powers and duties as Integrity Commissioner to Ellen Fry to inquire into, co-investigate and, if warranted, prepare a report thereon subject to his review and approval in relation to the above-noted complaint.

A. The Complaint

Ms. Dempster complains about an email survey sent by Deputy Mayor Perrelli to a number of residents on May 17, 2021 and corresponding information posted by him on Instagram. Her complaint is that the statements in these communications were in her view false, misleading and devoid of context.

B. Investigation Process

We reviewed:

- Ms. Dempster's written complaint, Deputy Mayor Perrelli's written response to her complaint and Ms. Dempster's written reply to his response
- The Code of Conduct

We conducted telephone interviews with Ms. Dempster and Deputy Mayor Perrelli, accompanied by his counsel.

C. Relevant Provisions of the Code of Conduct

Ms. Dempster believes that Deputy Mayor Perrelli has contravened section 7 of the Code of Conduct. The relevant provisions of the Code of Conduct are as follows:

7.1 Members shall accurately communicate the decisions of Council even if they disagree with the majority decision of Council, and by doing so affirm the respect and integrity in the decision-making processes of Council.

7.2 Members shall respect that Staff have an obligation to act impartially, and in accordance with all Richmond Hill policies including the Employee Code of Conduct.

7.4 Members shall:

(b) acknowledge and respect the fact that Staff carry out directions of Council as a whole and administer the policies of Richmond Hill....

7.5 No Member shall:

(a) publicly criticize individual Staff in a way that casts aspersions on their professional competence and credibility;

7.6 The content of any Member's communications, regardless of method of communication, shall be accurate, honest and respectful of other persons, including other Members, Staff and the public.

7.8 When using social media, Members shall not:

...

(c) use social media to publish anything that is dishonest, untrue, offensive, disrespectful, constitutes harassment, is defamatory or misleading in any way.

D. The Email Survey and Instagram Post

On May 17, 2021, Deputy Mayor Perrelli sent out an email survey to a mailing list of Richmond Hill residents and posted an associated message on Instagram.

Question 1) of the email survey reads as follows:

Question 1)

It has come to my attention that 3 of the highest paid staff in Richmond Hill have each received a \$30,000 (approx.) yearly pay increase; this was done without the issue being brought to Council for approval.

MY CURRENT POSITION

I believe that these raises are unconscionable at a time that we are laying off front-line staff who are some of the lowest paid people in the corporation and when many Richmond Hill residents and businesses are struggling with lost jobs, wages, and mental health issues.

However, before taking any action; I wanted to get your input on what steps I should take next. Therefore, if you have an opinion on this matter, please mark an X next to the course of action which you think I should take.

() I do not believe that the highest paid staff should have received such a large pay increase and I want you to bring the issue to Council and take all possible steps to reverse the raises.

() I do not believe that the pay increases were warranted but take no action.

() I am fine with the pay increases but I want Council to implement safeguards to ensure that any future increases to the top management staff have to be brought to Council for approval.

() I am fine with the pay increases and I believe that there is no need for Council approval.

The associated Instagram post by Deputy Mayor Perrelli reads as follows:

Politicians voting themselves massive pay increases!
Top staff giving other top staff huge pays [sic] increases without Council approval!
To take the 2 question survey please go to this web address: http://perrelli-events.ca/fsa_2021/ or click the link on my profile. Thank you.

E. Positions of the Parties

Ms. Dempster indicates that, as approved by Council, it was within the authority of staff to give these salary increases. She is the City Manager and indicates that the City Manager has always had authority over internal human resources matters. She indicates that in this instance, Council directed the City Manager to move from a four commission model to a three commission model, and she explained to Council that some positions might be affected by the resulting increased responsibility and scope. Under a policy approved by Council, an independent consultant conducted job evaluations under the management of the Director of Human Resources. These job evaluations resulted in the pay increases in question. She believes that the statements in the email survey and Instagram post were false, misleading and devoid of context.

Deputy Mayor Perrelli indicates, in his written response dated June 30, 2021, that in his view the survey “does not attack the integrity of the decision making process”. Rather, he indicates that “the entire point of the survey is that significant salary increases did not come before Council for approval based, according to Ms. Dempster’s history of the by-laws, on the process for awarding salary increases in the City of Richmond Hill. The question for politicians... is whether this is appropriate and meets the expectations of their constituents”. Deputy Mayor Perrelli points to the third response option in the survey as indicating this.

F. Analysis

Deputy Mayor Perrelli was entitled to survey his constituents on whether they considered the current process to approve salary increases to be appropriate. However, that being said, Deputy Mayor Perrelli had a responsibility to communicate the survey in a manner that complied with the Code of Conduct. It can be argued that the individual components of the email survey and Instagram post may have been accurate if taken in isolation. However, when looked at in their entirety, they did not comply with the requirements of the Code of Conduct, as explained below.

Question 1) of the email survey reads “It has come to my attention that 3 of the highest paid staff in Richmond Hill have each received a \$30,000 (approx.) yearly pay increase; this was done without the issue being brought to Council for approval”.

Option 3 to respond to the survey reads “I am fine with the pay increases but I want Council to implement safeguards to ensure that any future increases to the top management staff have to be brought to Council for approval”.

A resident reading question 1) of the survey would reasonably be expected to receive the incorrect impression that staff should have brought the issue to Council but did not.

A key element of the context for the survey is that the survey does not attack the integrity of the decision making process. This is particularly so in light of subsection 7.4(b) of the Code of Conduct, that requires Councillors to “acknowledge and respect the fact that Staff carry out directions of Council as a whole and administer the policies of Richmond Hill...”

Deputy Mayor Perrelli argues that response option 3 makes this element of context clear. However, communicating such a key element of the context should have been done at the beginning of the survey, so that an incorrect impression was not created. The survey should not have been structured in a way that created an initial incorrect impression and left it to the reader to assess a response option in order to correct the impression.

We note that not all recipients of the survey would be expected to read beyond Question 1) to see the response options. Also, not all those who read response option 3) would be expected to understand that response option 3 was meant to interpret the initial impression.

Subsection 7.6 of the Code of Conduct requires the contents of a Councillor’s communications to be not only “accurate” but also “honest”. In interpreting the word “honest”, we note that subsection 4.4 of the Code provides that “To ensure the highest standards of conduct by Council and Members, the Code is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein”.

We consider that in creating an initial incorrect impression, the email survey contravened the requirement in subsection 7.6 of the Code of Conduct to be an honest communication. It also contravened the requirement in subsection 7.4(b) of the Code of Conduct to “acknowledge and respect the fact that Staff carry out directions of Council as a whole and administer the policies of Richmond Hill...”

The Instagram post also communicates an initial incorrect impression and does not communicate the key element of context referred to above.

The Instagram post states “Top staff giving other top staff huge pay increases without Council approval!” A resident reading this would reasonably be expected to receive the incorrect impression that staff should have brought the issue to Council but did not. In order to correct this impression, the resident would need to click on the link in the Instagram post, read the survey question, read down in the survey to see the response options and understand from reading response option 3 that the initial impression was incorrect. This is a very complex way to reach a correct understanding.

Like the email survey, the Instagram post should not have been structured in a way that created an initial incorrect impression and left it to the reader to assess a response option in order to correct the impression.

Therefore we conclude that like the email survey, the Instagram post contravened the requirement in subsection 7.6 of the Code of Conduct to be an honest communication, and the requirement in subsection 7.4(b) to “acknowledge and respect the fact that Staff carry out directions of Council as a whole and administer the policies of Richmond Hill...”

The Instagram post also contravened subsection 7.8 (c) of the Code of Conduct, in that in this post Deputy Mayor Perrelli used social media to publish something that was misleading.

As indicated above, Ms. Dempster has also expressed the view that Deputy Mayor Perrelli contravened subsections 7.1, 7.2 and 7.5 of the Code of Conduct. In our view, these provisions were not contravened, as outlined below.

The email survey and Instagram post did not communicate decisions of Council, inaccurately or otherwise, and therefore in our view did not contravene subsection 7.1.

In our view, the email survey and Instagram post did not question the impartiality of staff and therefore did not contravene subsection 7.2.

The email survey and Instagram post did not identify any individual staff members. A person knowledgeable about Richmond Hill processes might know that the staff members involved in the decision making were the City Manager and the Director of Human Resources. However, the Richmond Hill residents receiving these communications would not reasonably be expected to be aware that these were the individual staff members involved. Accordingly, there was no contravention of section 7.5 of the Code of Conduct.

G. Summary of Conclusions and Recommendation

It is reasonable to conclude that the email and Instagram post contravened subsections 7.4(b), 7.6 and 7.8(c) of the Code of Conduct.

We note that the Preamble and Principles section of the Code of Conduct provides as follows:

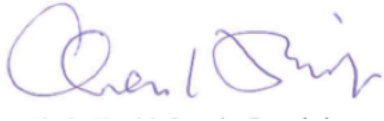
- 1.1 The Council of the Town of Richmond Hill is committed to achieving the highest standards of conduct by its Members which is essential to maintaining and ensuring public trust and confidence in Council and Richmond Hill's decision making and operations.
- 1.2 (a) Members will act in an accountable and responsible manner with integrity and fairness in the performance of their duties
- ...
- (c) Members are expected to perform their duties and arrange their private affairs in a manner that promotes public confidence and which will bear close public scrutiny.

Section 12.8 of the Code of Conduct provides as follows:

- 12.8 If the Integrity Commissioner finds that a Member has contravened the Code, the Integrity Commissioner may recommend and Council may impose one of the following penalties on that Member:
- (a) A reprimand; or
 - (b) The suspension of the remuneration paid to that Member for a period of up to 90 days.

Taking into account the contraventions of the Code of Conduct, in the context of the Preamble and Principles, we recommend that Council reprimand Deputy Mayor Perrelli.

Dated this 24th day of November, 2021.



Charles Harnick
Integrity Commissioner for the Town of Richmond Hill



Ellen Fry
Co-Investigator, Office of the Integrity Commissioner