

**CITY OF VAUGHAN
COMMITTEE OF THE WHOLE (2)
ADDENDUM AGENDA**

**(NOTE: ADDENDUMS WILL REQUIRE A TWO-THIRDS VOTE OF THE MEMBERS
PRESENT TO BE ADDED TO THE AGENDA)**

Monday, March 9, 2020

9:30 a.m.

Council Chamber

2nd Floor, Vaughan City Hall

2141 Major Mackenzie Drive

Vaughan, Ontario

Pages

**6. DETERMINATION OF ITEMS REQUIRING SEPARATE DISCUSSION
INCLUDING MEMBERS RESOLUTION(S)**

Addendum Listing

- | | | |
|-----|--|----|
| 13. | <i>PROCLAMATION AND FLAG RAISING REQUESTS - MS
AWARENESS DAY, ISRAEL'S INDEPENDENCE DAY, EPILEPSY
AWARENESS MONTH & PURPLE DAY, AND PARKINSON
AWARENESS MONTH</i>
Report of the Deputy City Manager, Administrative Services and City
Solicitor with respect to the above. | 3 |
| 14. | <i>INDEMNIFICATION BY-LAW AMENDMENTS</i>
Report of the Deputy City Manager, Administrative Services and City
Solicitor with respect to the above. | 19 |
| 15. | <i>BILL 108 UPDATE - REGULATORY PROPOSAL REGARDING THE
COMMUNITY BENEFITS CHARGE AUTHORITY</i>
Report of the Deputy City Manager, Administrative Services and City
Solicitor, Deputy City Manager, Corporate Services and Chief Financial
Officer, and Acting Deputy City Manager, Planning and Growth
Management with respect to the above. | 83 |

- | | | |
|-----|---|-----|
| 16. | <i>PROCLAMATION AND FLAG RAISING REQUEST - WORLD AUTISM ACCEPTANCE DAY</i>
Report of the Deputy City Manager, Administrative Services and City Solicitor with respect to the above. | 95 |
| 17. | <i>PROCLAMATION REQUEST - NATIONAL PROCUREMENT MONTH – MARCH</i>
Report of the Deputy City Manager, Corporate Services and Chief Financial Officer with respect to the above. | 101 |
| 18. | <i>REQUEST FROM CONMAR DEVELOPMENTS INC. & FENLANDS VAUGHAN INC., DG GROUP AND LORWOOD HOLDINGS FOR MINISTER'S ZONING ORDER FOR THE DECLASSIFICATION OF PROVINCIALLY SIGNIFICANT WETLANDS IN BLOCK 34 EAST</i>
Resolution of Mayor Bevilacqua with respect to the above. | 105 |

Committee of the Whole (2) Report

DATE: Monday, March 09, 2020

WARD(S): ALL

**TITLE: PROCLAMATION AND FLAG RAISING REQUESTS:
MS AWARENESS DAY, ISRAEL'S INDEPENDENCE DAY,
EPILEPSY AWARENESS MONTH & PURPLE DAY, AND
PARKINSON AWARENESS MONTH**

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek approval for proclamations and/or flag raising requests for: MS Awareness Day, Israel's Independence Day, Epilepsy Awareness Month & Purple Day, and Parkinson Awareness Month.

Report Highlights

- Respond to requests from the York Region Multiple Sclerosis (MS) Community, the Consulate General of Israel (Toronto and Western Canada), Epilepsy York Region and Parkinson Canada.
- Proclamations and flag raising events requested for dates between March and May 2020.

Recommendations

1. That May 6, 2020 be proclaimed as "MS Awareness Day" and that the City of Vaughan raise the MS flag at Vaughan City Hall on May 6, 2020 for the balance of the day;
2. That April 29, 2020 be proclaimed as "Israel's Independence Day" and that the City of Vaughan raise the national flag of Israel at Vaughan City Hall on April 30, 2020 for the balance of the day;

3. That the month of March 2020 be proclaimed as “Epilepsy Awareness Month” and March 26, 2020 as “Purple Day”;
4. That the month of April 2020 be proclaimed as “Parkinson Awareness Month”; and,
5. That the proclamations be posted on the City’s website and the Corporate and Strategic Communications department be directed to promote the above-noted proclamations and flag raisings through the various corporate channels.

Background

MS Awareness Day

Correspondence was received from the York Region MS Community on January 30, 2020 requesting a proclamation and flag raising.

The York Region MS Community services members in the York Region area with financial and equipment subsidies. The group is hoping that by creating further awareness of MS with events such as the proclamation and flag raising, funding to members will increase.

This request has been previously approved by Council.

Israel’s Independence Day

Correspondence was received from the Consulate General of Israel (Toronto and Western Canada) on February 10, 2020 requesting a proclamation and flag raising.

On April 29, 2020, the State of Israel will be celebrating its 72nd Independence Day. A flag raising event at Vaughan City Hall was requested to accompany this special occasion.

This request has been previously approved by Council.

Epilepsy Awareness Month & Purple Day

Correspondence was received from Epilepsy York Region on February 11, 2020 requesting a proclamation.

To combat the stigma surrounding those that have epilepsy may live with, the month of March, and specifically Purple Day (which is on March 26), has been celebrated internationally to raise awareness, dispel myths associated with epilepsy, and increase education.

This request has been previously approved by Council.

Parkinson Awareness Month

Correspondence was received from Parkinson Canada on February 20, 2020 requesting a proclamation.

Currently in Ontario, there is an estimated 40,000 people living with this neurodegenerative disease, which is a nearly 50% increase in the prevalence of Parkinson's in the last fifteen years (as per Parkinson Canada). The group is requesting a proclamation to lend recognition to the importance of educating the public on Parkinson disease, as well as raising awareness.

This request has been previously approved by Council.

Previous Reports/Authority

MS Awareness Day - [Committee of the Whole - March 5, 2019](#)

Israel's Independence Day - [Committee of the Whole - March 5, 2019](#)

Epilepsy Awareness Month & Purple Day - [Committee of the Whole - March 5, 2019](#)

Parkinson Awareness Month – [Committee of the Whole - March 2013](#)

Analysis and Options

MS Awareness Day

The proclamation and flag raising request meets the requirements of the City's Proclamation Policy and Flag Raising/Half Masting Policy, as follows:

"That upon request, the City of Vaughan issue Proclamations for events, campaigns, or other similar matters: If the event, campaign or declaration is directly related to matters over which the City has jurisdictions or the City directly sponsors the event, campaign or other matter"; and

"Flags of non-partisan, non-profit, charitable organizations shall be flown at the City of Vaughan Civic Centre upon a written request to the City Clerk submitted one month in advance on the understanding that the individual flag will not be flown for a period longer than one week".

Israel's Independence Day

The proclamation and flag raising request meets the requirements of the City's Proclamation Policy and Flag Raising/Half Masting Policy, as follows:

“That upon request, the City of Vaughan issue Proclamations for events, campaigns, or other similar matters: If the event, campaign or declaration is directly related to matters over which the City has jurisdictions or the City directly sponsors the event, campaign or other matter”; and,

“In recognition of the ethnic diversity of the residents of the municipality the City of Vaughan will fly at the Civic Centre the flag of any nation, country or ethnic group on the national day or on the anniversary of a special occasion, upon a written request to the City Clerk submitted one month in advance by that nation, or ethnic group or its representatives”.

Epilepsy Awareness Month & Purple Day

The proclamation request meets the requirements of the City’s Proclamation Policy, as follows:

“That upon request, the City of Vaughan issue Proclamations for events, campaigns, or other similar matters: (i) which are promoted by any organization that is a registered charity pursuant to Section 248 of the Income Tax Act”.

Parkinson Awareness Month

The proclamation request meets the requirements of the City’s Proclamation Policy, as follows:

“That upon request, the City of Vaughan issue Proclamations for events, campaigns, or other similar matters: (i) which are promoted by any organization that is a registered charity pursuant to Section 248 of the Income Tax Act”.

Financial Impact

There is no expected financial impact with respect to this request.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff is recommending, having reviewed the requests in the order that they were received, that May 6, 2020 be proclaimed as MS Awareness Day and that the MS flag be raised at Vaughan City Hall on May 6, 2020; that April 29, 2020 be proclaimed as Israel’s Independence Day and the national flag of Israel be raised at Vaughan City Hall on April 30, 2020; that the month of March be proclaimed as Epilepsy Awareness Month and March 26 as Purple Day; that the month of April be proclaimed as Parkinson

Awareness Month; and finally, that the proclamations be posted on the City's website and the Corporate and Strategic Communications department be directed to promote the proclamations and flag raisings through the various corporate channels.

For more information, please contact: Todd Coles, City Clerk, ext. 8281

Attachments

1. Correspondence from York Region MS Community, received on January 30, 2020.
2. Correspondence from the Director of Government Relations, Consulate General of Israel (Toronto and Western Canada), received on February 10, 2020.
3. Correspondence from the Executive Director, Epilepsy York Region, received on February 11, 2020.
4. Correspondence from the Community Development Coordinator (Central Ontario), Parkinson Canada, received on February 20, 2020.

Prepared by

Julia Bartolomeo, Supervisor, City Clerk's Administrative Services, ext. 8280

YORK REGION
MMULTIPLE **S**SCLEROSIS
COMMUNITY

York Region MS Community
9350 Yonge Street, P.O. Box 61528
Richmond Hill, Ontario, L4C 0C9

RECEIVED

JAN 30 2020

CLERK'S DEPT.

Attention: Todd Coles
City Clerk's Office

Dear Todd

I am sending you this letter as annual effort to put forth a Proclamation to council of making May 6th MS Day in the City of Vaughan. The York Region MS Community services hundreds of our members with financial and equipment subsidies each and every month. As you know, York Region is one of Canada's fastest growing regions and every week our membership grows with someone being diagnosed with Multiple Sclerosis. By creating awareness of MS, we will be able to increase our funding to our members and increase the involvement of York Region citizens in helping us fundraise. In order to achieve this goal, we would like to propose May 6th MS Day where the MS flag will be raised at the Vaughan City Hall. The flag raising event would boost the MS Awareness Campaign in Vaughan and allow us to reach out to more of our members and accomplish our mission. The York Region MS Community would greatly appreciate your continued support in the Flag Raising Event. This year's event will be our 7th MS Flag Raising Event at the City of Vaughan. May is MS Month! I look forward in speaking with you on this matter and to designating May 6th MS Awareness Day in the City of Vaughan.

Peter Busciglio
York Region MS Community
416.816.4787



RECEIVED

FEB 10 2020

CLERK'S DEPT.

February 4, 2020

Mr. Todd Coles
City Clerk
City of Vaughan
2141 Major Mackenzie Dr.
Maple, ON L6A 1T1

Dear Mr. Coles,

On April 29, 2020, the State of Israel will be celebrating its 72nd Independence Day. The Consulate General of Israel in Toronto and Western Canada asks you to consider this letter a formal request to have April 29, 2020 proclaimed as Israel's Independence Day and to host our annual flag-raising ceremony at Vaughan City Hall on April 30, 2020 at 10:00 a.m.

We are inviting the members of Vaughan City Council to join with Vaughan's Israeli-Canadian and Jewish communities in celebrating this special occasion and the growing relationship between the State of Israel and the City of Vaughan. This year will be particularly significant as we are also celebrating a successful Vaughan Trade Mission to Israel that took place in November 2019.

The official ceremony, about an hour in length, will include the raising of the national flag of Israel, the singing of the national anthems of Canada and Israel, and remarks by the Mayor, City Councillors, the Consul General of Israel, and representatives of Vaughan's Jewish community. We also request the use of a lectern and speaker system during the ceremony.

I appreciate your taking the time to review our request and ask you to present it before Vaughan City Council. I look forward to hearing back from you at your earliest convenience.

Sincerely,

Jordan Falkenstein
Director of Government Relations



Consulate General of Israel
Toronto and Western Canada



israelintoronto



@israelintoronto



City of Vaughan
2141 Major Mackenzie Dr
Vaughan, ON
L6A 1T1

Monday, February 3rd, 2020

Dear Mayor Maurizio Bevilacqua,
Epilepsy York Region (EYR) is a non-profit organization which supports individuals and their families living with epilepsy. For the last 32 years we have been advocating, supporting, educating, promoting public awareness and developing programs for those with epilepsy based on their needs. Currently, in York Region alone, there is estimated to be 11,000 individuals with epilepsy. This breaks down to 1 in every 100 people in our catchment area and makes it likely for someone to personally know at least one individual with epilepsy.

Although our resources and tools have worked to support so many across York Region living with epilepsy, the stigma that so many live with often outweighs the seizure itself. Many, especially children, are left feeling embarrassed, alone and isolated from their friends, peers and families. To combat this stigma, the month of March, and specifically Purple Day, which is celebrated on March 26th annually, has been marked internationally to raise awareness, dispel the myths associated to this disease, and to increase education. Purple Day invites those across the world to wear purple on March 26th in support of those with epilepsy and help those individuals understand they are not alone in their unknown ending battle with epilepsy.

It is an opportunity for those living with epilepsy to reach out and let the community know that seizures do not define who they are; they can still be a loving parent and spouse, a fun child, a productive employee, a learning student, a thriving talented individual and most of all, a friend.

We at Epilepsy York Region are reaching out to you, in hopes that Vaughan will proclaim March as epilepsy awareness month and March 26th as Purple Day. In addition, if there is a possibility of lighting a local landmark purple on March 26th showing your support, we would love to be part of this initiative!

Yours truly,

A handwritten signature in black ink that reads 'CL Cozza'.

Claudia Cozza
Executive Director
Epilepsy York Region

RECEIVED

FEB 11 2020

CLERK'S DEPT.

Bartolomeo, Julia

Subject: FW: Proclamation Request: April | Parkinson Awareness Month
Attachments: 2020 Sample Proclamation - Municipality_ FR (1).docx; Proclamation_Municipalities_2020_EN.DOCX

RECEIVED

FEB 20 2020

CLERK'S DEPT.

From: Courtney Willis <Courtney.Willis@Parkinson.ca>
Sent: Thursday, February 20, 2020 1:52 PM
To: Clerks@vaughan.ca
Subject: Proclamation Request: April | Parkinson Awareness Month

Good afternoon,

April is Parkinson Awareness Month. Parkinson's is a disease of the brain that touches every aspect of daily living, including: movement, mood, speech, eating and drinking, sleep and cognitive changes. It worsens over time, resulting in a loss of independence and ultimately premature death. There is no known cause or cure for Parkinson's disease.

In Ontario today, an estimated, 40,000 people live with this condition. As the population ages, we continue to see significant increases in the prevalence of Parkinson's. In Ontario, we have seen a nearly 50% increase in the prevalence of Parkinson's in the last 15 years. Parkinson's is the fastest growing neurological condition in the world.

As a government we strive to provide the best care that we can to all of our citizens, but at times we must rely on community groups to bridge that gap. In Ontario, Parkinson Canada offers volunteer run support groups in 90 communities, education opportunities, access to Parkinson resources, a dedicated helpline and staff across the province to connect people living with Parkinson to community programs and resources that will support living better, no matter what. Parkinson Canada also offers education, advocacy, public awareness, and research provided for people affected by Parkinson's disease across Canada. In Ontario and across the country, Parkinson Canada is helping to ensure that no one faces Parkinson's alone.

Parkinson Canada would be honored if you would sponsor an official proclamation to recognize the month of April as Parkinson Awareness Month. Your proclamation would lend official recognition to the important work of educating the public on Parkinson Disease, as well as emphasize your personal commitment to raising awareness about this neurodegenerative disease affected 100,000 Canadians.

If you or your staff have any questions concerning the request, the sample proclamation or Parkinson Awareness Month, please contact me.

Thank you for your consideration of this special request.

Courtney Willis

Community Development Coordinator | Central Ontario

PARKINSON CANADA

316 - 4211 Yonge Street, Toronto, ON M2P 2A9

1-800-565-3000 ext. 3326

courtney.willis@parkinson.ca | www.parkinson.ca



It's thanks to **our loyal donors** that Parkinson Canada is [here for Canadians](#) with Parkinson's, no matter what. **And for this we thank them!**

C'est **grâce à nos fidèles donateurs** que Parkinson Canada est [présent pour les Canadiens](#) atteints de la maladie de Parkinson, quoi qu'il arrive. Et **pour cela nous sommes reconnaissants!**

Like us on Facebook at www.facebook.com/ParkinsonCanada and follow us @ParkinsonCanada on Twitter.

**Proclamation
April 2020
World Parkinson's Day**

WHEREAS Parkinson's is a disease of the brain that touches almost every aspect of daily living including movement, mood, speech, eating, drinking, sleep, and cognition; and

WHEREAS Parkinson's is a progressive chronic disease that results in a loss of independence and premature death with no known cure; and

WHEREAS Parkinson's is the fastest-growing neurological condition in the world affecting 100,000 Canadians; and

WHEREAS the number of people diagnosed each day with Parkinson's in Canada will rise to over 50 in the next 10 years; and

WHEREAS Parkinson's is the most prevalent neurodegenerative movement disorder; and

WHEREAS Parkinson's disease impacts the lives of thousands of families and care partners; and

WHEREAS timely access to care and treatments makes the difference between living well and experiencing hardship; and

WHEREAS Parkinson Canada provides education, client services, research, and advocacy for people living with Parkinson's and care partners across Canada; and

WHEREAS community members must engage in helping friends, family and neighbours living with Parkinson's

NOW THEREFORE, I, _____, Mayor of _____, do hereby proclaim the month of April 2020 as "Parkinson's Awareness Month" and April 11th as "World Parkinson's Day" in _____, and urge all citizens of our community to become more educated and aware of the far-reaching effects of Parkinson's.

Proclamation
Avril 2020
Journée mondiale de la maladie de Parkinson

ATTENDU QUE la maladie de Parkinson est une maladie du cerveau qui touche tous les aspects de la vie quotidienne, y compris les mouvements, l'humeur, l'élocution, la capacité à boire et à manger, le sommeil et les capacités cognitives;

ATTENDU QUE la maladie de Parkinson est une maladie chronique évolutive qui entraîne une perte d'autonomie et un décès prématuré, sans remède connu;

ATTENDU QUE la maladie de Parkinson est la maladie neurologique qui connaît la croissance la plus rapide au monde, touchant 100 000 Canadiens; et

ATTENDU QU'au Canada, le nombre de nouveaux cas diagnostiqués chaque jour augmentera à plus de 50 pendant les 10 prochaines années;

ATTENDU QUE la maladie de Parkinson est le trouble du mouvement neurodégénératif le plus répandu; et

ATTENDU QUE la maladie de Parkinson touche la vie de milliers de familles et de proches aidants;

ATTENDU QUE l'accès en temps opportun aux soins et aux traitements fait la différence entre bien vivre et éprouver des difficultés;

ATTENDU QUE Parkinson Canada offre des activités de sensibilisation, des services à la clientèle, des activités de recherche et de défense des intérêts pour les personnes atteintes de la maladie de Parkinson et les proches aidants partout au Canada;

ATTENDU QUE les membres de la communauté doivent se mobiliser pour aider leurs amis, les membres de leur famille et leurs voisins atteints de la maladie de Parkinson

POUR CES MOTIFS, je, _____, maire de _____, proclame le mois d'avril 2020 comme étant le « Mois de la sensibilisation à la maladie de Parkinson » et le 11 avril comme étant la « Journée mondiale de la maladie de Parkinson » à _____, et exhorte tous les citoyens de notre communauté à mieux s'informer sur les répercussions considérables de la maladie de Parkinson.

Committee of the Whole (2) Report

DATE: Monday, March 09, 2020

WARD(S): ALL

TITLE: INDEMNIFICATION BY-LAW AMENDMENTS

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

This report provides an overview of staff's suggested revisions to the City's Indemnification By-law to implement the policy options discussed by the Integrity Commissioner in her reports to Committee of the Whole and to provide some overall updates and changes.

Report Highlights

- If Council chooses to adopt the policy recommendations contained in the Integrity Commissioner's reports, the City's Indemnification By-law will need to be revised.
- The revised Indemnification By-law would provide indemnification for legal fees incurred by Members of Council and Local Boards ("Members") related to Code of Conduct complaints.
- Indemnification of legal fees for Members will be funded from corporate contingency in 2020, and will be budgeted as in the corporate budget for 2021 and going forward.
- Staff are proposing additional amendments to the Indemnification By-law, and the Code Complaint Protocol to give effect to the changes and to address existing gaps.

Recommendations

1. That a new Indemnification By-law, substantially in the form as Attachment #3 to this report be enacted.
2. That the Code of Ethical Conduct for Members of Council and Local Boards and related Complaint Protocol included as attachments #1 and #2 to this report be confirmed by by-law.
3. That any amounts incurred/to be incurred in 2020 to indemnify Members of Council and Local Board for Legal Proceedings that are not funded by the City's insurer be funded from the corporate contingency in 2020, and that such expenses be budgeted in the corporate budget for 2021 budget and going forward.

Background

At its meeting on January 28, 2020, Council received staff's communication on "2019 Indemnification By-law Amendments" and asked that a further report be brought back to Council from staff and the Integrity Commissioner on the issues identified therein. Both staff and the Integrity Commissioner prepared further reports, which were before Council on February 11, 2020. Staff now seek approval from Council to repeal the current Indemnification By-law 91-2011, as amended, and replace it with a new consolidated Indemnification By-law addressing the matters set out herein.

Previous Reports/Authority

[By-law 91-2011](#)

[By-law 013-2019](#)

[Council Report - Addendum Item 1 - February 11, 2020 - Suzanne Craig, Integrity Commissioner & Lobbyist Registrar](#)

[Communication - January 27, 2020 - 2019 Indemnification Bylaw](#)

[Communication - February 10, 2020 - Reimbursement of Legal Expenses for Council](#)

Analysis and Options

The *Municipal Act*, and section 14 of the *Municipal Conflict of Interest Act* ("MCIA") set out the circumstances in which a municipality may indemnify its employees and members of Council and Local Boards. In particular, sections 279 and 283 of the *Municipal Act* allow a municipality to indemnify current and former employees, and members of Council and Local Boards, for expenses, such as legal fees (including

damages awards and costs awards) incurred as a result acts or omissions done in the individual's capacity as employee or member.

Section 14 of the MCIA confirms that a municipality may indemnify a member of Council or Local Board for legal fees incurred in respect of a legal proceeding under the MCIA, so long as the member has not contravened section 5, 5.1 or 5.2 of the MCIA.

In light of the regulatory framework as well as the Integrity Commissioner's comments in respect of the Code of Conduct regime, and to address certain gaps in the existing By-law, staff are recommending certain amendments be made to the Indemnification By-law. Below is an overview of the proposed changes:

1. Enact one new Indemnification By-law that incorporates indemnification provisions of By-law 91-2011, as amended, with necessary amendments, together with the new provisions as provided in this report. This way, all matters of indemnification are dealt with in one document.
2. As set out as an option for Council to consider by the Integrity Commissioner in her report to Committee of the Whole dated March 9, 2020, if Council agrees to proceed with the option, add indemnification for actual and reasonable legal fees incurred by a Member of Council and Local Board related to a Code of Conduct complaint filed with the Integrity Commissioner for an investigation under section 223.4 or 223.4.1 of the *Municipal Act, 2001*, as amended (a "Code Complaint"), where the Integrity Commissioner has found that:
 - i. there has been no Code contravention; or
 - ii. a Code contravention has occurred by reason of inadvertence, or
 - iii. a Code contravention has occurred by reason of a bona fide error in judgment; or
 - iv. the referral of the matter is frivolous, vexatious or not made in good faith and the Integrity Commissioner dismisses the complaint without an investigation, or that there are no grounds or insufficient grounds for an investigation; or
 - v. where it becomes apparent in the course of an investigation that there are insufficient grounds to continue the investigation, the Integrity Commissioner terminates the investigation and dismisses the complaint.
3. Clarify that unless the City Solicitor determines there is a conflict in representation and the City cannot represent a person who is eligible for

indemnification ("Eligible Person"), the City (or the City, through its insurer) will assume carriage of the defence on behalf of the Eligible Person. Further clarify that Eligible Persons are required to aid the City in the defence of the Legal Proceeding. While this is already the practice at the City, as is in many other municipalities, and assuming carriage of a defence is generally required by the insurer, amendments to the By-law can provide further clarity in this respect.

4. Where an individual is required to retain their own counsel, such as in the case of a Code Complaint filed with the Integrity Commissioner, the individual can submit a request for indemnification to the City Solicitor, and such request may also include a request that actual and reasonable legal fees incurred be reimbursed/paid in advance of a final disposition being made. The existing sections of the Indemnification By-law relating to the process surrounding indemnification will continue to apply, including the current requirements for approval of legal counsel and budget, and the assessment of reasonableness of fees as submitted etc.
5. Where an individual's legal fees are paid in advance of a final disposition of a Legal Proceeding, and if it is subsequently determined that the individual is not entitled to indemnification in accordance with the By-law, the individual shall repay the Corporation within 90 days of such determination. Where an individual requests more than 90 days to reimburse the City, the City Solicitor shall bring a report to Council for direction.
6. If an Eligible Person receives a payment through a costs award or settlement in respect of a Legal Proceeding for which the City has indemnified the Eligible Person, such amounts must be paid to the City upon receipt by the Eligible Person.

The requirement for an individual to reimburse the City for indemnification expenses paid where the conduct in question is: (i) not related to the individual's capacity as an employee/Member, or (ii) was not done or made in good faith, or (iii) was not based on the reasonable belief that such acts or omissions were lawful and in the best interests of the corporation, are necessary pursuant to the *Municipal Act* and related case law. Likewise, the requirement for an Eligible Person to pay the City amounts received through costs awards or settlements are also necessary pursuant to the *Municipal Act* and related case law.

7. Any advance payment by the Corporation of reasonable legal fees incurred by an Eligible Person in a Legal Proceeding under the By-law shall be capped at

\$25,000. For advance reimbursement requests of any amounts exceeding \$25,000 prior to the final disposition of the Legal Proceeding, the City Solicitor shall bring a report to Council for direction.

This is one of the options for Council's consideration that the Integrity Commissioner provided in her report to Council dated February 10, 2020. Rather than only applying the reimbursement cap of \$25,000 to Code Complaints before the Integrity Commissioner, it is recommended that this rule be generally applied for all cases of advance payment so that there is consistency in approach. Any request for advance payment of legal fees reasonably incurred by the Eligible Person in a legal proceeding shall be subject to a \$25,000 cap, unless Council determines otherwise. (For clarity, this does not apply where the City assumes the defence of the Eligible Person itself or through its insurer.)

8. Clarify that proceedings related to the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched., as amended do not qualify for indemnification. This is consistent with the language of the *Municipal Act, 2001* and related case law.
9. Under the proposed By-law, the administration of the Indemnification By-law will be managed through the City Solicitor's office. This will streamline the process around indemnification and is similar to how other municipalities have structured their Indemnification By-laws. The By-law will also clarify that any issues of uncertainty relating to indemnification will be brought back to Council for determination.
10. Extend indemnification coverage of the By-law to members of the City's local boards, which would include the Vaughan Public Library Board. The prior Indemnification By-law provided indemnification for current/former members of Council as well as salaried officers employees. Members of the City's local boards were not included. The City has insurance liability coverage for members of local boards which covers members in the event they are named in a lawsuit as a result of their duties as it pertains to the board. Staff are therefore recommending that members of local boards be indemnified under the new Indemnification Bylaw.
11. Other administrative amendments are being included in the new By-law to increase readability and clarity. For instance, various definitions (such as "City Solicitor" and "Employee") would benefit from being streamlined. Similarly, it would make the By-law clearer if section 4.0 "Persons Served with Process" were amended to simply say that an Eligible Person served with a document which

initiates a Legal Proceeding shall forthwith deliver same to the City Solicitor. In the context of Code Complaints, Members will not be required to provide a copy of the Complaint to the City Solicitor, but instead will be permitted by the Integrity Commissioner to disclose the existence and general nature of the inquiry to the City Solicitor in support of their request for indemnification.

12. The effective date of the By-law will be the date that it is enacted by Council (i.e. an anticipated enactment date of March 11, 2020). It is recommended that:

- a. For ongoing matters where the City has assumed the defence of a Legal Proceeding on behalf of current or former employees, the City will continue to defend the Legal Proceeding on the Eligible Person's behalf.
- b. For all matters where indemnification is authorized under Bylaw 91-2011, as amended, those indemnification approvals will continue to apply under the new By-law.
- c. For Code Complaints filed with the Integrity Commissioner prior to the enactment of the new bylaw where a final disposition has not been rendered, the provision of the new bylaw will apply to any indemnification requests.

These transitional provisions are recommended to allow for minimal interruption of the indemnification entitlements of Eligible Persons. For Code Complaints, although there was a period of gap of indemnification for non-MCIA Code complaints between June 2019 and the present, if that gap had not existed, indemnification would apply only after the final disposition.¹ As such, it is staff's position that the new By-law would apply to any Code Complaints where a final disposition has not been rendered by the Integrity Commissioner, even if the Code Complaint was filed prior

¹ Former section 19 of the Complaint Protocol stated: (1) A Member of Council who is subject of an Integrity Commissioner complaint under Part A (Informal Complaint Procedure) or Part B (Formal Complaint Procedure) under this Protocol may charge against the Member's office budget the actual legal expense incurred for consultation with a lawyer of up to \$500.00.

(2) A Member of Council who is the subject of an Integrity Commissioner complaint investigation * under this Protocol may be reimbursed for actual and reasonable expenses incurred for consultation with a lawyer of up to \$5000.00, where it is determined that there has been no contravention of the Code of Ethical Conduct by the Member, such amounts to be charged against the Council Corporate Budget following approval by the Integrity Commissioner.

* An Integrity Commissioner complaint investigation begins when the Integrity Commissioner opens a case file and gives notice of the same to the Member of Council subject of the formal complaint

to the date of the enactment of the new Bylaw, as the right to indemnification would not have crystallized until the disposition is made.

In addition to the recommended amendments to the Indemnification By-law above, staff have also identified beneficial amendments to the Code of the Ethical Conduct for Members of Council and Local Boards and the related Complaint Protocol to ensure consistency in approach.

In particular, in consultation with the Integrity Commissioner, staff recommend adding new paragraphs 5 and 6 to Rule No. 6 of the Code of the Ethical Conduct for Members of Council and Local Boards which confirm, respectively, that: (i) Members are required to comply with sections 5, 5.1, and 5.2 the MCIA, and (ii) declarations of pecuniary interests known to Members shall be recorded in the meeting minutes in accordance with section 6 of the MCIA. While Members are bound by these obligations regardless of whether they appear in the Code of the Ethical Conduct for Members of Council and Local Boards, including such provisions will help bring clarity to Members and to the public. No other changes are made to the Code, which can be found as attachment #1.

Further, in consultation with the Integrity Commissioner, staff recommend adding new section 7(iv) of the Complaint Protocol which confirms that the Integrity Commissioner has the ability to terminate an investigation where it becomes apparent in the course of an investigation that the complaint is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation. While the Integrity Commissioner has inherent jurisdiction to terminate an investigation, adding an explicit provision to this effect (which is similar to prior sections included in the Complaint Protocol) will provide additional clarity for Members as well as the public. No other changes are made to the Complaint Protocol, which can be found as attachment #2.

Financial Impact

Although a provision providing indemnification of Mayor and Members of Council related to Code Complaints and MCIA proceedings had been in place in the past, there was no corresponding budget specifically allocated for indemnification.

The actual financial impact is difficult to forecast due to the varying number of matters that may arise each year and their complexity. As such, in consultation with Financial Planning and Development Finance, it is recommended that amounts incurred in 2020 to indemnify Members for legal proceedings not covered by the City's insurer, such as Code Complaints, will be funded from the corporate contingency in 2020. Such

expenses will be budgeted in the corporate budget for 2021 and going forward.

Broader Regional Impacts/Considerations

N/A

Conclusion

Based on Council's prior direction for staff to review the Indemnification By-law and the options provided for Council to consider received from the Integrity Commissioner, staff are proposing a new Indemnification By-law. The new Indemnification By-law will provide indemnification for legal fees incurred by Members related to Code Complaints filed with the Integrity Commissioner, together with other updates. Corresponding minor changes are also proposed for the Code of Conduct and Code Complaint Protocol.

For more information, please contact: Wendy Law, 8700

Attachments

1. Code of Ethical Conduct for Members of Council and Local Boards
2. Complaint Protocol
3. Proposed Indemnification By-law

Prepared by

Rebecca Hall-McGuire, Legal Counsel, ext. 8475

Attachment 1



**CITY OF VAUGHAN
POLICY MANUAL**

Policy No:	CL – 011
Department:	COUNCIL
Subject:	CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

CITY OF VAUGHAN

Council Approval: 2009/21/09
Minute No. 181
Cross Reference: Policy No. 01.35

Amended: 2011/06/28
Report No/Item: 35/2

**CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL
CITY OF VAUGHAN
TABLE OF CONTENTS**

Introduction	3
Preamble	3
Framework and Interpretation	4
Definitions	6
Rules:	
1 Key Principles	7
2 Gifts and Benefits	11
3 Confidential Information	16
4 Use of City Property, Services and Other Resources	18
5 Election Campaign Work	19
6 Business Relations	20
7 Improper Use of Influence	21
8 Conduct at Council Meetings and Local Board Meetings	22
9 Transparency & Openness in Decision-Making and Member's Duties	23
10 Media Communications	24
11 Representing The City	25
12 Conduct Respecting Current and Prospective Employment	26
13 Encouragement of Respect For The City and Its By-Laws	27
14 Harassment	28
15 Discreditable Conduct	29
16 Conduct Respecting Staff	30
17 Employment of Council Relatives/Family Members	31
18 Failure To Adhere To Council Policies and Procedures	32
19 Reprisals and Obstruction	33
20 Compliance With <i>The Code of Ethical Conduct</i>	34
21 Implementation	36

Introduction

Democracy is an active process – one that requires ongoing engagement between citizens and their elected officials. Ethics and integrity are at the core of public confidence in government and in the political process.

There has been a general trend at the municipal level of government in Ontario, to develop rules around ethical conduct for elected officials so that they may carry out their duties with impartiality and equality of service to all, recognizing that as leaders of the community, they are held to a higher standard of behavior and conduct. As of March 2019, municipalities are required to have codes of ethical conduct in place for Members of Council and local boards.

It is the purpose of this *Code of Ethical Conduct* to establish rules that guide Members of Council and Members of local boards (using the restricted definition of this term provided herein) in performing their diverse roles in representing their constituents and recognize Members' accountability for managing City resources allocated to them.

Preamble

Whereas the City of Vaughan first instituted a *Code of Conduct* for Members of Council in 1996;

And whereas the current *Code of Conduct for Members of Council* was adopted by Council in 2009;

And whereas the *Modernizing Ontario's Municipal Legislation Act, 2017*, S.O. 2017, c. 10, and the corresponding amendments to applicable legislation, require municipalities to establish codes of conduct for Members of Council and Members of local boards;

And whereas elected officials and Members of local boards of the City of Vaughan have and recognize their obligation to not only obey the law, but to go beyond the minimum standards of behaviour and act in a manner that is of the highest ethical ideals so that their conduct will bear the closest public scrutiny;

And whereas the private interest of elected officials and Members of local boards of the City of Vaughan must not provide the potential for, or the appearance of, an opportunity for benefit, wrongdoing, or unethical conduct;

And whereas this *Code of Ethical Conduct* stems from the principles of the pre-existing *Code of Conduct* that has been in place since 2009 based on the belief by the Council of the City of Vaughan that not just employees but also elected officials should have a document against which to measure their conducts that they may be held to account;

The Council of the City of Vaughan will adopt certain rules that further underscore a Councillor's belief in his/her responsibility as a public trustee and confirm that Members of City of Vaughan local boards will be held to the same ethical standard;

Commentary

The operation of democratic municipal government requires that elected officials and Members of local boards be independent, impartial and duly responsible to the people. To this end, it is imperative that:

- The City of Vaughan decisions and policy be made through the proper processes of municipal government structure.
- The City of Vaughan government structure and decision-making process reflect the importance of integrity, independence and accountability.
- Public office and membership on local boards shall not be used for personal gain.
- The public have confidence in the integrity of its municipal government and its local boards.

A written *Code of Ethical Conduct* protects the public interest and helps to ensure that the Members of Council and Members of local boards share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the Members must operate.

The public is entitled to expect the highest standards of conduct from the Members that it elects to local government and Members that serve on its local boards. Members of Council and local boards are therefore expected to perform their duties of office with integrity and impartiality in a manner that will bear the closest scrutiny. In turn, adherence to the standards set out in this *Code* will protect and enhance the City of Vaughan's reputation and integrity.

Framework and Interpretation

1. This *Code of Ethical Conduct* applies to the Mayor and all Members of Council as well as all Members of local boards (restricted definition). It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. Commentary and examples used in this *Code of Ethical Conduct* are meant to be illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document by the Integrity Commissioner, as she or he deems appropriate.
2. The Integrity Commissioner is responsible for performing, in an independent manner, the following:
 - a. The application of this *Code of Ethical Conduct* for Members of Council and Members of local boards.
 - b. The application of any procedures, rules and policies of the municipality and local boards governing the ethical behaviour of Members of Council and of local boards.
 - c. The application of sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50, as amended, to Members of Council and of local boards.
 - d. Requests from Members of Council and of local boards for advice respecting their obligations under this *Code of Ethical Conduct*.
 - e. Requests from Members of Council and of local boards for advice respecting their obligations under a procedure, rule or policy of the municipality or of the local board, as the case may be, governing the ethical behaviour of Members.
 - f. Requests from Members of Council and of local boards for advice respecting their obligations under the *Municipal Conflict of Interest Act*.

- g. The provision of educational information to Members of Council, Members of local boards, the municipality and the public about this *Code of Ethical Conduct* and about the *Municipal Conflict of Interest Act*.
- 3. With respect to requests for advice, referred to in paragraphs 2(d),(e), and (f) above:
 - a. Requests for advice from Members shall be in writing and the Integrity Commissioner shall provide all advice in writing; and
 - b. As long as all the facts known to the Member are disclosed to the Integrity Commissioner and there is no change to these facts, then the Member may rely on any written advice provided by the Integrity Commissioner.
 - c. The Integrity Commissioner will create a “confidentiality wall” such that, if the Integrity Commissioner receives a Formal Complaint in respect of the matter for which advice was given, the written advice provided to the Member will not remove the presumption of neutrality of the Integrity Commissioner or unfairly prejudice the Member.
 - 4. Members of Council, Members of local boards, and members of the public or City Staff seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.
 - 5. The Integrity Commissioner is barred from conducting an inquiry in respect of actions, omissions, or decisions of the administration of Council. Any requests for inquiry or complaints in respect of actions, omissions or decisions of the administration of Council shall be denied by the Integrity Commissioner.
 - 6. With respect to requests for advice, referred to in paragraphs 2(d), (e) and (f) above, the Integrity Commissioner will not be barred from receiving and investigating complaints for which written advice was given. Notwithstanding the above, the Integrity Commissioner may, from time to time and within her discretion, decide to delegate the investigation of a complaint under subsection 223.3(3) of the *Municipal Act*.
 - 7. Should an issue arise where it may be unclear whether a complaint falls within the mandate of York Region or the City of Vaughan, both the Regional and City of Vaughan Integrity Commissioners will work together to develop a process to resolve the matter and report the findings to the appropriate council(s). In such instances, consideration should be given to the following:
 - a. The municipality in which the complaint was filed;
 - b. The municipality in which the expense/mileage claim was submitted for an event or function; and
 - c. The reasonableness for the respective municipality’s Integrity Commissioner to undertake the investigation.

Commentary

This *Code of Ethical Conduct* does not prohibit the activities in which Members of Council normally engage on behalf of constituents in accordance with applicable laws.

The *Municipal Act* is the primary source of regulation for municipalities and provides the basis for good governance within municipal government. There are other important documents that regulate

the behavior and conduct of Members. Clear and consistent written rules provide elected officials with confirmation that their actions adhere to the highest ideals of integrity during their term of office. This *Code of Ethical Conduct* operates together with and as a supplement to the following existing statutes, documents and policies governing the conduct of Members.

Legislation:

- The *Municipal Act, 2001*, S.O. 2001, c. 25;
- The *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50;
- The *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched;
- The *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56; and
- The *Criminal Code*, R.S.C., 1985, c. C-46.

Definitions:

In this *Code of Ethical Conduct*:

1. the terms “Child”, “Parent” and “Spouse” have the same meanings as in the *Municipal Conflict of Interest Act*;
2. “Elector” has the same meaning as set out in section 1 of the *Municipal Conflict of Interest Act*.
3. “Employee” includes a consultant, a part-time or seasonal worker, and full-time worker, but not a Member.
4. “Member” means (i) a member of Vaughan City Council, or (ii) a member of the following local committees/local boards: Accessibility Advisory Committee, Committee of Adjustment, Heritage Vaughan Committee, and the Property Standards Committee.
5. “Family Member”¹ means,
 - Spouse, common-law partner, or any person with whom the person is living as a Spouse outside of marriage
 - Parent, including step-parent and legal guardian
 - Child, including step-child and grandchild
 - siblings and children of siblings
 - aunt/uncle, niece/nephew, first cousins
 - in-laws, including mother/father, sister/brother, daughter/son
 - any person who lives with the Member on a permanent basis
6. “Official duties” or “functions” have the following meaning:

For Members of Council, it includes those activities that are reasonably related to a Member’s office, taking into consideration the different interest, the diverse profiles of their wards and their different roles on Committees, agencies, boards and commissions.

¹ For the purposes of complaints under section 5, 5.1 and 5.2 of the MCIA, the Integrity Commissioner will adopt the definitions contained in the *Municipal Conflict of Interest Act*, section 3 in respect of an interest of certain persons deemed that of the Member.

For persons employed in the office of Members, it includes those activities and responsibilities that flow from acting on direction from or taking action on behalf of a Member.

7. "Staff" includes Deputy City Managers, Directors, Managers, Supervisors, clerical and technical unionized employees, hourly unionized staff, part-time unionized staff, full-time non-unionized employees, temporary / seasonal staff, contract staff, students and volunteers.

Implementation:

This *Code* shall replace Policy Number CL-011 – *Code of Ethical Conduct for Members of Council*.

Rule No. 1

Key Principles: The key principles that underline the rules in this *Code of Ethical Conduct* and shall be used to guide Members in decisions on their actions, and to guide the Integrity Commissioner in interpreting Rules 2 – 21 of this *Code*, are as follows:

- a) **Members shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

Commentary

This underscores that Members carry out their official City activities in a way that will foster and enhance respect for government and above all, demonstrate respect for members of the public.

- b) **Members should be committed to performing their Functions with integrity and transparency.**

**Amended, Council, June 28, 2011, Rpt 35, Item 2:*

Responding to Inquiries from the Public

Vaughan City Council is committed to overseeing the provision of responsive and accessible services including dealing with reasonable inquiries and requests for information in a timely manner. On occasion, an individual citizen may not be accepting of the response and may restate the inquiry in various ways, or may be rude or harassing in their delivery of the inquiry. There is a need to balance access to information against the need to protect the legitimate interests of the City; the need to respect approved policies and procedures of the City within civil and respectful discourse; and the need to respect the role of officers and employees of the municipality.

Members of Council who receive requests for information or inquiries from members of the public, City staff or other Members of Council may be guided by Protocol 03.26 "Response by City Staff to Requests for Information from the Public". In addition, complaints regarding staff may be forwarded to the appropriate City Commissioner or the City Manager.

This Code does not require Members of Council to provide a response to an inquiry or request for information that is frivolous or vexatious, unreasonable or harassing.

For example:

- the Member of Council is of the opinion on reasonable grounds that the inquiry is made for a purpose other than to obtain information;
- the inquiry has been made more than once and is being used for the purpose of revisiting an issue that has been previously addressed;
- the inquiry is articulated in such a way that it can be considered harassing or abusive;
- the Member is of the opinion, on reasonable grounds, that providing a response would interfere with the operations of the City;
- the inquiry is not an inquiry but rather a complaint.

Communication labelled "Private" and/or "Confidential" may be shared or disclosed as necessary or appropriate, taking into consideration the following:

- information may be disclosed to appropriate staff in order to respond to the issue or concern being communicated;
 - information will not be treated as confidential where the communication was shared by the requestor or not made in a confidential manner (copied to others, or made in the presence of others);
 - if the information is needed by an officer, employee, consultant or agent of the City who needs the information in the performance of her or his duties and if the information is necessary and proper in the discharge of the City's functions.
-

Commentary

As public officials, Members recognize the public's right to reasonable access to information in relation to how decisions are made. This right of access includes the right of the public to receive complete and understandable information which must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

- c) Members shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real. Members shall not extend, in their discharge of their Official Duties, preferential treatment to Family Members, organizations or groups in which they or their Family Member have a pecuniary interest, which pecuniary interest is known to the Member.**

Commentary

As a result, Members will have a common understanding that they will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual. Members recognize that their actions are governed by the *Municipal Conflict of Interest Act*. The Integrity Commissioner will distinguish between a *Code* conflict, which may be both apparent and real and which may be in respect of a Family Member as defined by the *Code*, and a pecuniary interest under the *Municipal Conflict of Interest Act* in respect of sections 1.1, 2 and 3 of the *Municipal Conflict of Interest Act*.

In addition, it is recognized that while Members are political representatives, they are also private citizens. Accordingly, Members may, in their capacity as private citizens, choose to endorse political parties. Members must take care to clarify that they do so as a private individual and must not be seen as using their office to endorse political candidates for election.

- d) Members shall avoid any interest in any contract made by him/her in his/her official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.**

- e) **Members shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the City of Vaughan, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the municipality.**
- f) **Approved exceptions**
A Member may engage in an activity prohibited by clause 1(e) if the following conditions are met:
 - 1. **The Member has disclosed all material facts to the Integrity Commissioner.**
 - 2. **The Integrity Commissioner is satisfied that the activity, as carried on in the specified manner, did not create a conflict between the Member's private interest and public duty.**
 - 3. **The Integrity Commissioner has given the Member his or her approval and has specified the manner in which the Member of Council may remedy the situation.**
 - 4. **The Member remedies the situation in the manner specified by the Integrity Commissioner**

Commentary

Members must adhere to the City's purchasing policies and pay careful attention to the Councillors' expense policies. Examples of exceptions include, hospital boards and other not-for-profit organizations and charities.

- g) **Members shall perform Official Duties and arrange their public affairs in a manner that promotes public confidence and respect and will bear close public scrutiny; and**

Commentary

Members shall not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual member of the public.

- h) **Members shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the City Council.**

Commentary

A number of the provisions of this *Code* incorporate policies, procedures and provisions adopted by Council and contained in various statutes. The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour.

- i) **Members shall fulfill their roles as set out in the *Municipal Act* and respect the role of staff in the administration of the business affairs of the City.**

Commentary

Members recognize that the decision-making authority for the municipality lies with Council, not an individual Councillor and that it is the role of the officers and employees of the municipality to implement council's decisions and establish administrative practices and procedures to carry out council's decisions. Members recognize and respect the role of City staff and affirm that only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information, on a need to know basis, in order to fulfill its decision-making duties and oversight responsibilities [...]. Individual Members also recognize that the information that they receive as members of the decision-making body of Council, or a local board, is subject to the confidentiality and disclosure rules of Provincial and Federal statutes and City of Vaughan bylaws. (See Rule No. 3 on Confidential Information and Rule No. 16 on Conduct Respecting Staff).

Rule No. 2

Gifts and Benefits:

- 1. No Member shall accept a fee, advance, gift, loan, or personal benefit that is connected directly or indirectly with the performance of his or her duties, except as specifically contemplated.**

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Member's Spouse, Child, or Parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member. Set out below are recognized as exceptions to Rule 2, which apply to Members of Council only; Members of local boards are not permitted to accept any gifts and benefits:

- (a) compensation authorized by law;**
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;**
- (c) a political contribution otherwise reported by law;**
- (d) services provided without compensation by persons volunteering their time to a Member;**
- (e) a suitable memento of a function honoring the Member (e.g. a trinket or favour of relatively little monetary value such as pen, notepad, t-shirts);**
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;**
(for greater certainty of item f, where Council has authorized or endorsed an initiative or event, this would be considered an official event.)
- (g) food and beverages consumed at banquets, receptions or similar events, for charitable, not for profit and community purposes, if:**
 - 1. attendance serves a legitimate public duty purpose; and**
 - 2. the value is reasonable and the invitations infrequent.**
- (h) business meals;**
- (i) communication to the offices of a Member, including subscriptions to newspapers and periodicals related to the duties of Office.**
- (j) Sponsorships and donations for community events or initiatives organized or run by a Member of Council or a third party on behalf of a Member where Council has authorized or endorsed the event or initiative.**

(for greater certainty of item j, for Member-organized community events or initiatives, Members should be transparent in their dealings with the public and should not handle any funds on behalf of any organizations and should remain at arms length from the financial aspects of these events and initiatives.)

Rule #2 Part 1(j) does not affect the entitlement of a Member of Council to:

- i. Use her or his office expense budget to run or support community events subject to the terms of the Councillor Expense Policy;*
- ii. Urge constituents, businesses and other groups to support community events put on by others in the Member's Ward or elsewhere in the City;*
- iii. Play an advisory or membership role in any organization that holds community events in the Member's Ward; and*
- iv. Collaborate with the City of Vaughan and its agencies to hold community events.*

Members of Council are strongly encouraged to document all gifts and benefits they receive. As indicated above, Members of local boards are not permitted to receive any gifts or benefits.

With respect to Members of Council, in the case of categories (b), (e), (f), (g) (h), and (i), where the value of the gift or benefit exceeds \$750 , or if the total value received from any one source during the course of a calendar year exceeds \$750, the Councillor shall, within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor information statement, the form of which will be prescribed by the Integrity Commissioner.

The Integrity Commissioner shall, without notice, examine from time to time the Councillor information statement to ascertain whether the receipt of a gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the Councillor.

In the event that the Integrity Commissioner makes the preliminary determination, he or she shall call upon the Member to justify receipt of the gift or benefit. Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City or City agency, board or commission. The above actions of the Integrity Commissioner do not require receipt of a Formal Complaint or that the Integrity Commissioner conduct a formal Code of Conduct investigation.

Each Member shall file a copy of their Councillor information statement with the office of the City Clerk on a quarterly basis (the first quarter being April 30th of the calendar year) and the statements shall be a matter of public record.

Commentary:

Gifts and benefits are often received by Members of Council in the course of their duties, and attendance at public functions is expected and considered part of their role. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits, where the total value may be perceived as potentially influencing decision making.

Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the City, be such that no Member of Council is perceived as showing favoritism or bias toward the vendor, contractor or other. Each Member of Council is accountable to the public and should keep a list of all gifts received from individuals, firms or associations (with estimated values) in their constituency offices for review by Integrity Commissioner, as he/she deems appropriate. However, for Members of Council, those gifts or benefits that exceed \$750 or the annual limit of \$750 for one source, shall be kept on a form prescribed by the Integrity Commissioner and filed with the office of the City Clerk on a quarterly basis.

Gifts that are subject to listing on the Member of Council information statement can be many types of things, and may include:

- property (e.g. a book, flowers, a gift basket, a painting or sculpture, furniture, wine);
- use of property or facilities (e.g. a vehicle, an office, a cottage) at a reduced rate or at no cost;
- membership in a club or other organization (e.g. a golf club) at a reduced rate or at no cost;
- an invitation to and/or tickets to attend an event (e.g. an athletic commercial event, concert, a play) at a reduced rate or at no cost;
- an invitation to attend a gala or fund-raising event at a reduced rate or at no cost.

An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's duties of Office (i.e. for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is considered to be the fulfillment of an official function or duty.

There are a range of expenses that support a Councillors' role in community development and engagement activities in their ward.

For MPPs, these expenses are generally paid for by caucus funds. This is not the case for municipal Members of Council. The section of the Councillor Expense Policy that deals with Community Expense-Events will indicate allowable expenses for reimbursement and provide for Members of Council to include certain community expenses related to a Member's role in community development as allowable expenditures from their office expense budget. However, gaming tickets during charitable functions, such as raffle tickets, table prize tickets, etc. should not be eligible for reimbursement.

Lobbying of public office holders is a permissible but is a regulated activity in the City of Vaughan. Lobbying is defined and regulated by By-law Number 165-2017 (the City's lobbying by-law inclusive of the Lobbyist Code of Conduct). Members are public office holders. As a matter of general principle, as public office holders, Members should be familiar with the terms of the lobbying by-law inclusive of the Lobbyist Code of Conduct. If a Member is or at any time becomes aware that a person is in violation of the Lobbyist Code of Conduct or registration regime, the Member should draw that person's attention to the obligations imposed by the Lobbying By-law and Lobbying Code of Conduct. A Member should report any such violation or attempted violation of Lobbying By-law to the Lobbyist Registrar.

- 2. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that:**
 - a. Are incurred for an official duty or function;**

- b. Are modest, representing a prudent use of public funds;
- c. Do not involve alcoholic beverages

In general, working meals are to be provided in-house.

Commentary

Rule #2 must be considered with and balanced against the principle contained expense policies in all Ontario municipalities, which is that Members are entitled to be reimbursed for expenses that are legitimately and appropriately incurred for an official duty or function and which are reasonable and prudent expenses and use of public funds in the circumstances. In making a determination of what constitutes a modest and prudent use of public funds, Members should consider the dollar amounts set in Policy CL-012 – Council Members Expense Policy, as amended.

Given the heavy demands on Members' schedules in the performance of their duties and Functions, there are legitimate circumstances that require business meetings over a meal period and result in the Member working through his or her normal meal periods.

As representatives of the municipal government, Members will be expected or required to extend hospitality to external parties as part of their Official Duties and Functions. This *Code* recognizes that through adherence to the current and proposed rules of the City's Councillor Expense Policy, it is legitimate for Members to incur hospitality expenses for meetings, examples of which include:

- a. Engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
- b. Providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Vaughan or the workings of its municipal government;
- c. Honouring persons from Vaughan in recognition of exceptional public service.

This *Code* recognizes that the current and proposed City of Vaughan Councillor Expense Policy, holds legitimate that Members of Council will be reimbursed or have their office budgets charged for expenses that are incurred while extending hospitality to an external party, including hospitality that takes place in the course of travelling on a duty or function or a Member of Council provided the expenses are reasonable and appropriate in the circumstances.

Reasonable and appropriate expenses are expenses that strike a balance between economy (the expenses represent a prudent use of public funds) and proportionality (the expenses represent what is customary for such functions).

Wherever possible, Members should utilize City-owned facilities and resources that are appropriate to the function.

- 3. This Code recognizes that as community leaders, Members of Council may lend their support to and encourage, community donations to registered charitable and Not for profit groups. Monies raised through fundraising efforts shall go directly to the**

groups or volunteers and chapters acting as local organizers of the group. This Code recognizes the important work of Members of Council in supporting charitable causes and the need for transparency in Members' involvement.

This Code sets the following guiding principles for Members of Council:

- (a) Members of Council should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.
- (b) A Member of Council or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or corporation with any pending planning, conversion, or demolition variance application before Vaughan City Council.
- (c) With reference to Member- Organized Community Events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.
- (d) Where a Member of Council sponsors and/or lends support to a charitable organization's event, this Code recognizes that all donations are subject to the *Code of Ethical Conduct* and CL-012 – Council Members Expense Policy.
- (e) No donation cheques should be made out to a Member of Council.

Nothing included herein affects the entitlement of a Member of Council to:

- i. Use her or his office expense budget to run or support community events subject to the terms of the Policy CL-012 – Council Members Expense Policy section relating to Community Expense Hosting Events by Council Members;
 - ii. urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in the Member's Ward or elsewhere in the City;
 - iii. play an advisory or membership role in any organization that holds community events in the Member's Ward; and
 - iv. collaborate with the City of Vaughan and its agencies to hold community events.
- (f) Members of Council should not handle any funds on behalf of any charitable organization or Community group and should remain at arms length from the financial aspects of these community and external events.

Rule No. 3

Confidential Information:

1. **No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.**
2. **No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.**
3. **No Member shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.**
4. **No Member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.**
5. **No Member shall permit any persons other than those who are entitled thereto to have access to information that is confidential.**
6. **No Member shall access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.**

Commentary:

Confidential information includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, such as under Access and Privacy legislation. Such legislation imposes mandatory or discretionary restrictions on disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, personal information about an individual disclosure of which would constitute an unjustified invasion of privacy, and information that is subject to solicitor-client privilege. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others or made in the presence of others) or the manner of communication undermines the validity of labeling it 'confidential', such communication will not be given any higher level of confidentiality than any other communication. The words 'privileged', 'confidential', or 'private' will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

For the purposes of the *Code of Ethical Conduct*, "confidential information" may also include information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential.

Under the Procedural By-law, a matter that has been legitimately discussed at an in-camera (closed) meeting remains confidential, until such time as a condition renders the matter public.

Requests for information should be referred to appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the *Municipal*

Freedom of Information and Protection of Privacy Act.

Particular care should be exercised in ensuring confidentiality of the following types of information:

- the security of the property of the municipality or local board;
- personal information about an identifiable individual, including municipal or local body employees;
- a proposed or pending acquisition or disposition of land by the municipality or local board;
- labour relations or employee negotiations and personnel matters.
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- items under contract negotiation
- price schedules in contract tender or Request For Proposal submissions
- statistical data required by law not to be released (e.g. certain census or assessment data)

Rule No. 4

Use of City Property, Services and Other Resources

No Member shall use for personal purposes any City property, equipment, services, supplies or services of consequence (for example, agency, board, commission, or City-owned materials, websites, board and City transportation delivery services, and any Members expense budgets) other than for purposes connected with the discharge of City duties, which may include activities within the Member's office of which City Council has been advised.

No Member shall obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Vaughan.

No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her Official Duties.

Commentary:

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. This privilege should not be seen to be abused. In recognizing that Members are held to a higher standard of behavior and conduct, Members should not use such property for any purpose other than for carrying out their Official Duties. Careful attention should be given to the provisions of the City's Councillor expense policy which identifies approved allowable expenses.

During election campaigns, refer to Rule No. 5 and 7.

Rule No. 5

Election Campaign Work:

- 1. Members of Council are required to follow the provisions of the *Municipal Elections Act, 1996*.**

Commentary

Although the Integrity Commissioner of the City of Vaughan does not have jurisdiction to receive or investigate complaints regarding alleged contraventions of the *Municipal Elections Act*, the Integrity Commissioner shall forward any information regarding a potential breach of the *Municipal Elections Act* by a Member of Council, directly to the City Clerk.

- 2. No Member shall use the facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities.**
- 3. No Member shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.**

Commentary

Paragraph 2 of Policy CL-008 – Permitting of City Facilities by Members of Council and Registered Candidates provides as follows: “Given that the Municipal Elections Act prohibits the use of corporate resources for election-related purposes, in a municipal election year, commencing on June 30th until the date of the election, Members of Council may not book directly, or indirectly, any City facility for any purpose that might be perceived as an election campaign purpose.”

Special attention should be given to section 10.0 of Policy CL-012 Council Member Expense Policy – Election Year Expenses.

Rule No. 6

Business Relations

- 1. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.**
- 2. No Member shall act as a paid agent before Council or a committee of Council or any agency, board, or committee of the City.**
- 3. No Member shall refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.**
- 4. If a Member becomes aware that an entity for which the Member has a material interest (or is a director or employee), may offer or provide goods, consulting or other services to the City, the Member will seek advice from the Integrity Commissioner about the application of the *Municipal Conflict of Interest Act* and whether, in consideration of the circumstances, membership is in the best interests of City. In providing this advice, the Integrity Commissioner will consider the risk of harm to the reputation of the Council.**
- 5. Members will comply section 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act*, as amended from time to time.**
- 6. Declarations of pecuniary interests known to Members shall be recorded in the minutes of Committee and Council meetings. In the event that Member declares an interest during Closed Session, the Member shall affirm their declaration of interest at the beginning of the Open Session as noted on the agenda.**

Commentary

Members are mindful to avoid any activity that may give rise to consideration of personal gain as a result of holding public office.

Rule No. 7

Improper Use of Influence:

- 1. No Member shall use the influence of her or his office for any purpose other than for the exercise of her or his Official Duties.**

Commentary

Pursuant to corporate policy, the City Manager directs Deputy City Managers, who in turn, direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration. This provision relates not only to the Member's actions in respect of City staff, but also in other ways as determined by the Integrity Commissioner in the course of conducting an inquiry.

Examples of prohibited conduct include: the use of one's status as a Member to improperly influence the decision of another person to the private advantage of oneself, or one's Parents, Child or Spouse, Staff, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of others as part of their Official Duties as a Member. Also prohibited is the holding out of the prospect or promise of future advantage through a Member's supposed influence within the local board or at the City, in return for present actions or inaction.

Rule No. 8

Conduct At Council Meetings and Local Board Meetings

- 1. Members shall conduct themselves at meetings with decorum. Respect for deputants and for fellow Members and staff requires that all Members show courtesy and not distract from the business of the Council or local board during presentations and when other Members have the floor.**

Commentary

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council, Committee, and local board meetings that is conducive to solving the issues before Council or the local board, listening to various point of view and using respectful language and behavior in relation to all those in attendance.

Rule No. 9

Transparency & Openness in Decision Making and Member's Duties

- 1. Members shall endeavour to conduct and convey City business and all their duties in an open and transparent manner (other than for those decisions which by virtue of legislation, Council Members are authorized to be dealt with in a confidential manner in closed session), so that stakeholders can view the process and rationale which was used to reach decisions, and the reasons for taking certain actions.**

Commentary

Various statutes, City by-laws, policies and procedures, as well as, decisions of courts and quasi-judicial tribunals form the basis of decisions made by City Council. Unless prohibited by legislation of by-law, Members should clearly identify to the public how a decision was reached and upon which law, procedure and policy their decision was based.

Rule No. 10

Media Communications

- 1. Members will accurately communicate the decisions of Vaughan's Council and local boards, even if they disagree with the decision, so that there is respect for and integrity in the decision-making processes of Council and local boards.**

Commentary

A Member may state that he or she did not support a decision or voted against the decision. A Member should refrain from making disparaging comments about other Members, and the processes and decisions of Council or the local board, as the case may be.

Rule No. 11

Representing the City

- 1. Members shall make every effort to participate diligently in the activities of the Committees, agencies, boards, commissions and advisory committees to which they are appointed.**

Commentary

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and ability to contribute diligently to matters before them bringing their expertise and experience.

To participate diligently means that a Member shall not be absent from Council, agencies, boards and commissions meetings without reasonable justification (e.g. illness of Member or special family circumstance) for more than three consecutive scheduled meetings or on a regular basis.

Rule No. 12

Conduct Respecting Current and Prospective Employment:

- 1. No Member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the City.**

Rule No. 13

Encouragement of Respect for the City and Its By-Laws

- 1. Members shall encourage public respect for the City and its by-laws.**

Commentary

A Member must not denigrate a City by-law in responding to a citizen, as this undermines confidence in the City and the rule of law.

Rule No. 14

Harassment

- 1. Members shall be governed by the City's Respectful Workplace Policy.**
- 2. Harassment by a Member of 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 may forward the information subject of the complaint to Human Resources who will refer it to an independent investigator.**

Commentary

It is the policy of the City of Vaughan that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment.

The City of Vaughan's Respectful Workplace Policy (Harassment and Discrimination) ensures a safe and respectful workplace environment and appropriate management of any occurrences of harassment and discrimination as defined by the policy.

The City of Vaughan Policy applies to Members and will provide guidance to the independent investigator. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator's findings to make a determination on the application of the *Code of Ethical Conduct* and the merits to an investigation on the ethical conduct of the Member subject of the complaint.

Rule No. 15

Discreditable Conduct

- 1. Members shall conduct themselves with appropriate decorum at all times.**

Commentary

As leaders in the community, Members are held to a higher standard of behavior and conduct, and accordingly their behavior should be exemplary.

All Members of Council and local boards have a duty to treat members of the public, one another, and Staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment.

Rule No. 16

Conduct Respecting Staff:

- 1. 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.**
- 2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.**
- 3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.**
- 4. No Member shall maliciously or falsely impugn or injure the professional or ethical reputation, or the prospects or practice of staff and all Members shall show respect for the professional capacities of the staff of the City.**

Commentary

Members should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.

Members of Council must recognize that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions as provided in the *Municipal Act*. The Administration, under the direction of the City Manager, serves the Council as a whole, and the combined interests of all Members as expressed through the resolutions of Council. An individual Member should not request staff to undertake extensive work or prepare lengthy reports, other than pursuant to a Council direction.

It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Any such attempts should be reported to the Integrity Commissioner.

Rule No. 17

Employment of Council Relatives/Family Members

- 1. No Member shall attempt to influence the outcome, or to influence any City employee to hire or promote a Member's family.**
- 2. No Member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any member of his or her Family.**
- 3. No Member shall supervise a Family Member or be placed in a position of influence over a Family Member.**
- 4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.**
- 5. Every Member shall adhere to the City's nepotism policy.**

Commentary:

If a Family Member of a Member is an applicant for employment with the City or candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the City's hiring policies, with no special consideration.

Rule No. 18

Failure to Adhere To Council Policies and Procedures:

- 1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.**

Commentary

A number of the provisions of this *Code of Ethical Conduct* incorporate policies and procedures adopted by Council. More generally, Members are required to observe the terms of all policies and procedures established by City Council.

Members of Council must pay special attention to, and comply strictly with, the Councillors Expense Policy.

This provision does not prevent a Member of Council from requesting that Council grant an exemption from a policy.

Rule No. 19

Reprisals and Obstruction:

- 1. No Member shall obstruct the Integrity Commissioner in the carrying out of her or his responsibilities.**
- 2. No Member shall threaten or undertake any act of reprisal against a person initiating an *inquiry or complaint* under the *Code of Ethical Conduct* or who provides information to the Integrity Commissioner in any investigation.**

Commentary

Members should respect the intent of the *Code of Ethical Conduct* and investigations conducted under it. It is also a violation of the *Code of Ethical Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications or refusing to respond in writing to a formal complaint lodged pursuant to the Complaint Protocol passed by Council.

Rule No. 20

Compliance with the *Code of Ethical Conduct*:

Members of Council

1. Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, Council may impose the following penalties on a Member of Council:
 - a) A reprimand; or
 - b) Suspension of the remuneration paid to the Member in respect of his or her services as a Member of Council for a period of up to 90 days.
2. Where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, the Integrity Commissioner may also recommend that Council take other remedial actions. Such remedial actions must be measures which are intended to address the violation and the effects of the violation. Such remedial actions may include but are not limited to the following:
 - a) Requiring repayment or reimbursement of moneys received by the Member.
 - b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.
 - c) Requiring a written and/or verbal apology from the Member to Council, the complainant, or both.
 - d) Removal from membership of a Committee (if applicable) where, due to the Member's violation of the *Code of Ethical Conduct*, it would no longer be appropriate for the Member to sit on the Committee.
 - e) Removal as Chair of a Committee (if applicable) where, due to the Member's violation of the *Code of Ethical Conduct*, it would no longer be appropriate for the Member to chair the Committee.
3. Upon Council's decision on the Integrity Commissioner's recommendations, the Member whose has violated the *Code of Ethical Conduct* shall comply with Council's decision. Failure to comply with Council's decision shall constitute a contravention of this Code.

Members of Local Boards

1. Upon receipt of the Integrity Commissioner's recommendations, and where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, in the case of a Member of a local board, Council may impose the following penalties:
 - a) A reprimand;
 - b) Suspension of the remuneration paid to the Member in respect of his or her services as a Member of a Local Board for a period of up to 90 days; or
 - c) Removal from the Local Board.
2. Where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, the Integrity Commissioner may also

recommend that Council take other remedial actions. Such remedial actions may include but are not limited to the following:

- a) Requiring repayment or reimbursement of moneys received by the Member.**
 - b) Requiring the return of property, or reimbursement of its equivalent monetary value, received by the Member.**
 - c) Requiring a written and/or verbal apology from the Member to Council, the complainant, the local board, or any/all of these parties.**
 - d) Removal from membership of a Committee (if applicable).**
 - e) Removal as Chair of a Committee (if applicable).**
- 3. Upon Council's decision on the Integrity Commissioner's recommendations, the Member whose has violated the *Code of Ethical Conduct* shall comply with Council's decision. Failure to comply with Council's decision shall constitute a contravention of this Code.**

Commentary

Members of Council are accountable to the public through the election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

In addition, the *Municipal Act* authorizes Council to impose either of two penalties on a Member following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Ethical Conduct*. For clarity, the Integrity Commissioner is not limited to the actions listed in 2 (a-e) above.

In the case of Members of local boards, these Members serve at the pleasure of Council. Accordingly, where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Ethical Conduct*, Council has a broader range of disciplinary measures that may be taken.

Rule No. 21

Implementation

- 1. Members are expected to formally and informally review their adherence to the provisions of the *Code* on a regular basis or when so requested by the Integrity Commissioner.**
- 2. At the beginning of each term, Members will be expected to sign two copies of the *Code of Ethical Conduct*.**
- 3. At the beginning of each term, each Member of Council shall meet with the Integrity Commissioner.**
- 4. At the beginning of each term, each Member of Council shall file an explanatory statement of all community organizations in which they participate, in the form provided by the Integrity Commissioner, within 60 days of being elected or appointed. Thereafter, each Member of Council shall file or update their disclosure statement, once in every calendar year on the date established by the Commissioner.**
- 5. Councillors and members of the public should not assume that any unethical activities not covered by or not specifically prohibited by these ethical standards of conduct, or by any legislation, are therefore condoned.**

Commentary

At the beginning of each term, Members of Council will be expected to sign two copies of the *Code of Ethical Conduct* (one for themselves and one for the Clerk's Office) to convey to each other and all stakeholders that they have read, understand and accept it.

A *Code of Ethical Conduct* component will be included as part of the orientation workshop for each new Council.

Attachment 2
COMPLAINT PROTOCOL
FOR THE CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL AND LOCAL BOARDS

Authority: *Municipal Act, 2001*, S.O. 2001, (as amended) CHAPTER 25 and as adopted by Council at its meeting held on _____, 2019.

1. Until such time as a new/revised *Council Code of Ethical Conduct* is adopted, only complaints relating to behaviour or activity occurring subsequent to March 1, 2019 will be addressed by this procedure.
2. After December 31, 2008 all complaints must be addressed in accordance with the below captioned procedure within six (6) months of the alleged violation or no action will be taken on the complaint.
3. Defined terms used but not defined in this Complaint Protocol shall have the same meaning as set out in the *Code of Ethical Conduct for Members of Council and Local Boards* (the "Code of Conduct").

PART A: INFORMAL COMPLAINT PROCEDURE

4. Individuals (including City employees, members of the public, Members of Council or local boards) who identify or witness behaviour or activity by a Member that appears to be in contravention of the Code of Conduct, or sections 5, 5.1 and 5.2 of the *Municipal Conflict of Interest Act* ("MCIA") in the case of Council Members, may address the prohibited behaviour or activity themselves as follows:

- (i) Advise the Member that the behaviours or activity appears to contravene the Code of Conduct, or section 5, 5.1 or 5.2 of the MCIA in the case of Council Members;
- (ii) Encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to avoid future occurrences of the prohibited behaviour or activity;
- (iii) Document the incidents including dates, times, locations, other persons present, and any other relevant information. Request that the Integrity Commissioner assist in the informal discussion of the alleged complaint with the Member in an attempt to resolve the issue. If applicable, confirm to the Member your satisfaction with the response of the Member; or, if applicable, advise the Member of your dissatisfaction with the response; and

At the earliest possible juncture, the Member whose behaviour is complained of will be advised of an inquiry to the Integrity Commissioner under the Informal Complaint Procedure, and any complainant will be so advised;

- (iv) Pursue the matter in accordance with the formal complaint procedure outlined in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.

Individuals are encouraged to pursue this informal complaint procedure as a means of stopping and remedying a behaviour or activity that they believe violates the Code of Conduct. The informal complaint procedure will not apply to complaints against Members in respect of section 5, 5.1 or 5.2 of the MCIA. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint. However, it is not a precondition or a prerequisite that those complaining to pursue the informal complaint procedure prior to pursuing the formal complaint procedure in Part B. The Integrity Commissioner will assess the suitability of the informal complaint process for settlement or resolution on an ongoing basis and may at any time decline to continue participation in the process. The complainant or the respondent can decline to participate in the informal complaint process at any time. The informal complaint procedure is an informal process, and the Integrity Commissioner will not perform an official investigation nor provide a public report, even if the parties agree to involve the Integrity Commissioner in this informal process.

PART B: FORMAL COMPLAINT PROCEDURE

Formal Complaints

5. Electors and individuals acting in the public interest (including City employees, members of the public, and Members of Council or local boards) who identify or witness behaviour or an activity by a Member that they believe is in contravention of the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, may file a formal complaint with the required information on the proscribed affidavit (see page 6 of this procedure):
 - (i) All complaints must be made on the Complaints Form/Affidavit and shall be dated and signed by an identifiable individual;
 - (ii) The complaint must include an explanation for why the issues raised may be a contravention of Code of Conduct or the MCIA. Evidence in support of the allegation must also be included;
 - (iii) Witnesses in support of the allegation must be named on the complaint form;
 - (iv) The Integrity Commissioner will provide a summary of the complaint to the respondent and to others who may be involved in carrying out this procedure;
 - (v) The complaint form/affidavit must include the name of the alleged violator, the provision of the Code of Conduct or MCIA allegedly contravened, facts constituting the alleged contravention, the names for the complainant during normal business hours;
 - (vi) Receipt of formal complaints will be acknowledged in writing;
 - (vii) If the complaint relates to an alleged violation of sections 5, 5.1, or 5.2 of the MCIA, the complaint must be made within six weeks after the applicant became aware of the alleged contravention. The complainant must also provide a statutory declaration to this effect in their application.

Filing of Complaint and Classification by Integrity Commissioner

6.
 - (i) The complaint shall be filed with the City Clerk who shall forward the matter to the Integrity Commissioner for initial classification to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, and not covered by other legislation or other Council policies as described in subsubsection 3. The Integrity Commissioner shall make a decision regarding classification within 30 days of receiving the complaint from the City Clerk.
 - (ii) If the complaint is not in the prescribed form, the Integrity Commissioner may defer the classification until a Complaint Form/Affidavit is received.

NOT A VIOLATION

- (iii) If the complaint, including any supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct, or sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members, or the complaint is covered by other legislation or complaint procedure under another Council policy, the Integrity Commissioner shall advise the complainant in writing as follows:

CRIMINAL MATTER

- (a) If the complaint on its face is an allegation of a criminal nature consistent with the *Criminal Code* of Canada, the complainant shall be advised that if the complainant wishes to pursue any such allegation, the complainant must pursue it with the appropriate Police Service.

MUNICIPAL CONFLICT OF INTEREST ACT

- (b) If the complaint on its face is with respect to non-compliance with the *Municipal Conflict of Interest Act*, save an except sections 5, 5.1, and 5.2, the complainant shall be advised to review the matters with the complainant's own legal counsel.

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- (c) If the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that the matter must be referred to the City Clerk for Access and Privacy Review.

OTHER POLICY APPLIES

- (d) If the complaint seems to fall under another policy, the complainant shall be advised to pursue the matter under such policy.

LACK OF JURISDICTION

- (e) If the complaint is, for any reason not within the jurisdiction of the Integrity Commissioner, the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate.

MATTER ALREADY PENDING

- (f) If the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, Human Rights complaint or similar process, the Integrity Commissioner may, in his/her sole discretion suspend any investigation pending the result of the other process.
- (g) If the Integrity Commissioner has already reviewed and rendered a decision or has investigated the matter subject of the complaint, the complainant will be advised that the matter cannot be further pursued through the Code complaint process

INDIVIDUAL NOT ACTING IN THE PUBLIC INTEREST

- (h) If the Integrity Commissioner is of the opinion that the individual making the complaint is not acting in the public interest, the complainant shall be so advised, and the Integrity Commissioner shall not conduct an investigation. In assessing whether a complainant is acting in the public interest, the Integrity Commissioner shall consider: (i) whether the complainant is advancing a concern, issue or complaint that involves an issue of importance to some or all citizens of Vaughan rather than a private interest which is mainly of interest to the affected parties; and (ii) whether the complaint is vexatious, frivolous, or unreasonably persistent, as set out in the City of Vaughan's Vexatious and Frivolous Complaints Policy. The Integrity Commissioner may also consider any other relevant facts in assessing whether a complainant is acting in the public interest.

Investigation

7. (i) Where the Integrity Commissioner determines that an investigation is warranted, he/she will proceed as follows, except where otherwise required by the *Public Inquiries Act*, 2009, S.O. 2009, c. 33, Sched. 6:
 - a. Give the complaint to the Member whose conduct is in question with a request that a written response to the allegation be provided within ten days; and
 - b. Give a copy of the response provided to the complainant with a request for a written reply within ten days.
- (ii) If necessary, after reviewing the submitted materials, the Integrity Commissioner may speak to anyone, access and examine any other documents or electronic materials and may enter any City work location relevant to the complaint for the purpose of investigation and potential resolution.
- (iii) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, delay or retaliation encountered during the investigation.
- (iv) If the Integrity Commissioner is of the opinion that the referral of a matter to him/her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation, and where this becomes apparent in the course of an investigation, terminate the investigation.

Opportunities for Resolution

8. Following receipt and review of a formal complaint, or at any time during the investigation, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

No Complaint Prior to Election

9. (i) Notwithstanding any other provisions of this Protocol, no complaint may be referred to the Integrity Commissioner, or forwarded by the Clerk for review and/or investigation between the regularly scheduled nomination day and voting day in any year in which a regular municipal election will be held.
- (ii) If the Commissioner has not completed an inquiry before nomination day for a regular election the Commissioner shall terminate the inquiry on nomination day.
- (iii) If an inquiry is terminated in accordance with section 12(ii), the Commissioner shall not commence another inquiry in respect of the matter unless, within six weeks after voting day in a regular election the person who made the application or the Member or former Member whose conduct is concerned applies in writing to the Commissioner for the inquiry to be carried out.
- (iv) Where an inquiry has been terminated, and the complainant or former Member has requested the inquiry be carried out, the Integrity Commissioner shall be permitted to use any information and evidence obtained prior to the termination. If no request is made to carry out the inquiry, no review or investigation shall be made.

Reporting on Code of Conduct Investigations

10. (i) The Integrity Commissioner shall report to the complainant and the Member generally no later than 90 days after the receipt of the Complaint Form/Affidavit of the complaint. If the investigation process takes more than 90 days, the Integrity Commissioner shall provide an interim report and must advise the parties the date the report will be available.
- (ii) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement, or recommended corrective action. Where the complaint is not sustained, the Integrity Commissioner shall report to Council the result of the investigation.
11. (i) Where the Integrity Commissioner reports to Council that in her or his opinion, there has been a violation of the Code of Conduct, the municipality may impose penalties and remedial actions in accordance with the *Municipal Act* and the Code of Conduct. The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any respondent unless the respondent has had notice of the basis for the proposed finding and any recommended sanction or remedial action, and an opportunity either in person or in writing to comment on the proposed findings.
- (ii) If the Integrity Commissioner determines that there has been no contravention of the Code of Conduct or that a contravention occurred although the Member took all reasonable measures to prevent it, or that a contravention occurred that was trivial or committed through inadvertence or an error of judgement made in good faith, the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act* and the Code of Conduct.
- (iii) The Integrity Commissioner shall give a copy of the report to the complainant and the Member whose conduct is concerned.
- (iv) Upon receipt of a report, the Clerk shall process the report for the next meeting of Council's Committee of the Whole.

Reporting on MCIA Investigations

12. (i) The Integrity Commissioner shall complete his/her investigation into alleged contraventions of sections 5, 5.1, or 5.2 of the MCIA within 180 days after the receipt of the Complaint Form/Affidavit. However, this section does not apply if the investigation is terminated in accordance with section 223.4.1(12) of the *Municipal Act*.
- (ii) If, upon completion of the investigation, the Integrity Commissioner determines that on a balance of probabilities there has been a violation of the MCIA, or is otherwise of the opinion that it is in the City's interest for a judge to determine if there has been a violation of the MCIA, the Integrity Commissioner may apply to a judge for such a determination. For greater certainty, nothing in this Protocol shall prevent a complainant from bringing their own application to a judge for a determination of whether there has been a violation of sections 5, 5.1, or 5.2 of the MCIA.
- (iii) Upon completion of the investigation, the Integrity Commissioner shall advise the complainant whether the Commissioner will be making an application to a judge for a determination if there has been a violation of the MCIA. The Integrity Commissioner shall publish written reasons for his/her decision within 90 days of such decision. The Integrity Commissioner shall periodically report to Council on the outcome of his/her investigations of alleged MCIA contraventions.

No Reports Prior to Election

13. Notwithstanding any other provisions of this Protocol, between nomination day and voting day for a regular municipal election, the Integrity Commissioner shall not make any report to Council or to any other person about whether a Member has contravened the Code of Conduct, including sections 5, 5.1, or 5.2 of the MCIA in the case of Council Members.

Duty of Council

14. Council shall consider and respond to the report within 45 days after the day the report is presented to it (this timeline shall be extended as necessary in the case of summer hiatus and festive closure).

Public Disclosure

15. (i) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where this does not interfere with the course of any investigation, except as required by law and as required by this complaint protocol.

(ii) At the time of the integrity Commissioner's report to Council, and as between the parties, the identity of the Respondent shall not be treated as confidential information.

(iii) All reports from the Integrity Commissioner to Council will be made available to the public.

Please see Complaint Form/Affidavit below.

Please note that signing a false affidavit may expose you to prosecution under Section 131 and 132 or 134 of the *Criminal Code*, R.S.C.1985,c.C-46, and also to civil liability for defamation.

Page __ of __

Complaint Form/Affidavit

AFFIDAVIT OF

_____[full name]
I, _____[full name], of the [City, Town, etc.] of _____
_____[municipality of residence]
in the Province of Ontario.

MAKE OATH AND SAY [or AFFIRM]:

1. I have personal knowledge of the facts as set out in this affidavit, because

_____[insert reasons e.g. I Work for...I attended the
meeting at which....etc.]

2. I have reasonable and probable grounds to believe that a Member of Vaughan City Council, or a Member of a Vaughan local board, as set out in the *Code of Ethical Conduct for Members of Council* (the "Code of Conduct")

_____[specify
name of member], has contravened section(s) _____[specify section(s)] of the
Code of Conduct or sections 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act* in the case of Council
Members. The particulars of which are as follows: [Set out the statements of fact in consecutively
numbered paragraphs in the space below, with each paragraph being confined as far as possible to a
particular statement of fact. If you require more space, please use the attached Schedule A form and
check the appropriate box below. If you wish to include exhibits to support this complaint, please refer to
the exhibits as Exhibit A, B, etc. and attach them to this affidavit. If you are submitting a complaint in
respect of sections 5, 5.1, or 5.2 of the *Municipal Conflict of Interest Act*, please be aware that your
affidavit must include a statutory declaration in accordance with section 223.4.1(6) of the *Municipal Act*]

Please see attached Schedule A _____ (check if applicable)

1. This affidavit is made for the purpose of requesting that this matter be reviewed and for no other purpose.

SWORN [or AFFIRMED] before me at
the [City, Town, etc. of _____]
_____))
_____ in the Province of Ontario on _____)
_____))
_____ [date] _____)

[Signature of commissioner]

A Commissioner for taking affidavits, etc. _____)

Schedule A
(Additional Information)

To the affidavit required under subsection 5 of The Formal Complaint Procedure
[If more than one page is required, please photocopy this blank page and mark each additional page as 2
of 2, 2 of 3, etc. at the top right corner.]

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This Schedule A referred to in the affidavit of _____ [full name]
Sworn [or Affirmed] before me on this _____ day
of _____, _____.

A Commissioner for taking affidavits, etc.

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER XX-2020

A By-law to provide for the indemnity and defence of members of council, members of local boards, and employees of the Corporation against loss or liability incurred while acting on behalf of the Corporation, and to repeal By-law 91-2011, as amended.

WHEREAS Section 8 of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to govern;

AND WHEREAS Section 279(1) of the *Municipal Act, 2001*, as amended, provides that a municipality may, subject to certain limitations, act as an insurer and protect present and former members of council, local boards, employees, and officers from risk that may involve pecuniary loss or liability on the part of those individuals;

AND WHEREAS Section 283(1) of the *Municipal Act, 2001*, as amended, provides that municipalities may pay any part of the remuneration and expenses of the members of any local board of the municipality and the officers and employees of the local board;

AND WHEREAS Section 283(2) of the *Municipal Act, 2001* as amended, provides that a municipality may only pay the expenses of members of council, local boards, employees, and officers if the expenses are of those persons in their capacity as members, officers or employees, among other considerations;

AND WHEREAS Section 223.3(6) of the *Municipal Act, 2001*, as amended, provides that a municipality shall indemnify and save harmless the Integrity Commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defence of a proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a duty or authority under Part V.1 of the *Municipal Act, 2001*, as amended, or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority;

AND WHEREAS the Integrity Commissioner is authorized under sections 223.4 and 223.4.1 of the *Municipal Act, 2001* to conduct inquiries as it relates to the Code of Ethical Conduct for Members of Council and local boards and the *Municipal Conflict of Interest Act*;

AND WHEREAS Section 8 of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.

ATTACHMENT 3

50, as amended, allows an elector, an Integrity Commissioner of a municipality or a person demonstrably acting in the public interest to apply to a judge for a determination of the question of whether a member, or former member, has contravened section 5, 5.1 or 5.2 of the *Municipal Conflict of Interest Act*.

AND WHEREAS Section 14 of the *Municipal Conflict of Interest Act*, provides that a municipality may pass a by-law to protect a member of council or of any local board thereof against any costs or expenses incurred by the member as a result of a proceeding brought under *Municipal Conflict of Interest Act*, and for paying on behalf of or reimbursing the member for such costs or expenses, so long as the member has been found not to have contravened that Act.

NOW THEREFORE the Council of The Corporation of the City of Vaughan enacts as follows:

Section 1- Definitions and Interpretation

- (1) In this By-law, unless a contrary intention appears,
 - (a) “Advance Payment” means payment by the Corporation of actual and reasonable legal fees incurred by an Eligible Person in the course of defending the Legal Proceeding, in advance of a final disposition of the Legal Proceeding;
 - (b) “Code” means the Code of Ethical Conduct for Members of Council and Local Boards, as amended;
 - (c) “Code Complaint” means a formal or informal complaint made to the Integrity Commissioner, and includes an inquiry under section 223.4 or 223.4.1 of the *Municipal Act, 2001*.
 - (d) “Corporation” means The Corporation of the City of Vaughan;
 - (e) “City Solicitor” means the City Solicitor of the Corporation, or designate;
 - (f) “City Manager” means the City Manager of the Corporation, or designate;
 - (g) “Eligible Person” means any of the following persons of the Corporation:
 - (i) a current or former member of Council;
 - (ii) a current or former member of a local board;
 - (iii) the current or former Integrity Commissioner, including any person acting under the instructions of the Integrity Commissioner;
 - (iv) the current or former Lobbyist Registrar;
 - (v) current or former officers and employees.

ATTACHMENT 3

(h) "Legal Proceeding" means:

- (i) a civil proceeding or administrative action, including but not limited to an action, application, motion, hearing, trial; or
- (ii) a proceeding wherein a person is charged with an offence under the *Criminal Code*, R.S.C. 1985, c. C. 46 or the *Highway Traffic Act*, R.S.O. 1990, s. H.8; or
- (iii) a proceeding brought under section 8 of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M. 50, as amended (the "MCIA"); or
- (iv) a Code Complaint; or,
- (v) a complaint to a professional association;

But excludes:

- (i) any proceeding commenced by the Corporation;
- (ii) any proceeding in which the Corporation is a party adverse in interest;
- (iii) any proceeding where the Corporation's and the Eligible Person's interests conflict; or
- (iv) any proceeding under the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, Sched., as amended.

Section 2 - Indemnification of Eligible Persons

- (1) Subject to the provisions of this By-law, the Corporation shall indemnify an Eligible Person, and his or her heirs and legal representatives, in respect of any Legal Proceeding arising out of acts or omissions done or made by the Eligible Person:
 - (a) in his or her capacity as an Eligible Person, including those acts or omissions arising from the performance of any statutory duty imposed by any general or special Act; and
 - (b) acting in good faith and based on the reasonable belief that such acts or omissions were lawful and in the best interests of the Corporation or local board as applicable.
- (2) The Corporation shall reimburse members of Council and local boards for expenses incurred in obtaining legal advice to determine whether the member has a pecuniary interest in a matter which is the subject of consideration by council or a board.

ATTACHMENT 3

- (3) If an Eligible Person qualifies for indemnification in a Legal Proceeding under this By-law, the City will assume carriage of the Legal Proceeding on behalf of the Eligible Person, unless the City Solicitor determines that the City cannot represent the Eligible Person. For greater certainty, the City shall not assume carriage of a Legal Proceeding referred to in 1(h)(iii) or 1(h)(iv) above.
- (4) Where the City Solicitor determines that the City cannot represent the Eligible Person, the City Solicitor may request that the Eligible Person retain independent legal counsel and be indemnified for legal fees in accordance with this By-law.
- (5) The City Solicitor shall have the right to request that an Eligible Person obtain their own legal counsel at any time during the course of the Legal Proceeding if the City Solicitor is of the opinion that it is no longer appropriate for the City to defend and represent, or to continue to defend and represent the Eligible Person.
- (6) Where the City assumes the defence of a Legal Proceeding on behalf of an Eligible Person, the Eligible Person shall co-operate with the City and assist the City in the defence of the Legal Proceeding, as required by the City. This includes providing timely and fulsome responses to requests for information and attending the proceedings and meetings, as required.
- (7) Where an Eligible Person fails to co-operate and assist the City in accordance with section 2(6), the City Solicitor may determine that it would be inappropriate for the City to defend and represent, or continue to defend and represent, the Eligible Person, and the Eligible Person will no longer qualify for indemnification in respect of the Legal Proceeding.
- (8) If the City defends and represents the Eligible Person in a Legal Proceeding, the City shall not be responsible for any legal or other costs incurred by the Eligible Person unless such expenses have been pre-approved by the City Solicitor.

Section 3 - Process to Request Indemnification

- (1) If an Eligible Person is required to obtain their own legal representation pursuant to section 2, or if the Eligible Person is seeking to be reimbursed for legal expenses pursuant to section 2(2), he or she may make a written request for indemnification,
 - (a) to the City Solicitor; or,
 - (b) where the City Solicitor is the person seeking indemnification, to the City Manager; or
 - (c) where both the City Manager and the City Solicitor are named as parties in the legal proceeding giving rise to the request, to Council.
- (2) Upon receipt of a request for indemnification, the City Solicitor shall provide a written response within 10 business days of delivery of the request.

ATTACHMENT 3

- (3) A written request referred to in section 3(1) may include a request for Advance Payment of actual and reasonable legal fees. In the absence of such a request for Advance Payment, payment of legal fees shall be made after a final disposition of the Legal Proceeding or the completion of the matter referred to in section 2(2) as appropriate (where a final disposition includes termination or settlement of a Legal Proceeding).
- (4) Any Advance Payment made by the Corporation is subject to:
 - (a) A cap of \$25,000 if the Advance Payment is not assumed or paid for by the Corporation's insurer;
 - (b) the requirement to reimburse the City, as set out in sections 5(2), 5(3), and 5(4); and
 - (c) the condition that, if repayment of legal fees is required under this Bylaw, that repayment shall be made within 90 days of the final disposition of the Legal Proceeding.
- (5) If an Eligible Person wishes to seek Advance Payment for an amount exceeding \$25,000 as provided in section 3(4)(a), the City Solicitor shall bring a report to Council for direction.
- (6) If at any point the Eligible Person wishes to deviate from the repayment obligations to repay the City within 90 days, the Eligible Person shall make a request to the City Solicitor who shall bring the matter to Council to seek direction and approval.

Approval of Lawyer

- (7) A written request for indemnification referred to in Section 3.0(1) may include a request for approval of a lawyer chosen by the Eligible Person, or may request that the City Solicitor suggest three lawyers.
- (8) Where a request for indemnification seeks approval of a lawyer chosen by the Eligible Person, the response by the City Solicitor shall also:
 - (a) approve the request to retain the lawyer chosen by the Eligible Person; or
 - (b) deny the request and suggest three lawyers of the Corporation's choice who could represent the Eligible Person in the Legal Proceeding at issue.
- (9) Where the City Solicitor has suggested three lawyers, the Eligible Person shall select from the list and shall notify the City Solicitor of the selection, within 5 calendar days of receipt.

ATTACHMENT 3

Section 4 - Eligible Persons Served with Process

- (1) Subject to section 4(2), where an Eligible Person is served with any document which initiates a Legal Proceeding, he or she shall forthwith deliver the document to the City Solicitor.
- (2) Where a Member of Council or local board receives a Code Complaint the Member of Council or local board may request permission from the Integrity Commissioner to disclose the existence and general nature of the complaint to the City Solicitor in support of their request for indemnification under this By-law.

Section 5 - Manner and Extent of Indemnification

- (1) The Corporation shall provide indemnification to an Eligible Person as follows under this By-law:
 - (a) Assume carriage of the defence on behalf of the Eligible Person or pay the actual and reasonable expenses of defending such Eligible Person in the Legal Proceeding; and/or,
 - (b) pay any damages or costs, including any monetary penalty, or award against such Eligible Person as a result of a Legal Proceeding; and/or,
 - (c) pay, either by direct payment or by reimbursement, any expenses reasonably incurred by the Eligible Person as a result of a Legal Proceeding or a request for payment of fees under section 3; and/or,
 - (d) pay any sum required in connection with the settlement of a Legal Proceeding, provided that the City Solicitor approves the terms of the settlement;

to the extent that such costs, damages, expenses, monetary penalty, other award or other sums related to the Legal Proceeding are not assumed, paid or reimbursed under any provision of the Corporation's insurance for the benefit and protection of such person against any liability incurred by him or her.

- (2) If it is determined in a Legal Proceeding that an Eligible Person's acts or omissions giving rise to the Legal Proceeding did not:
 - (a) arise out of acts or omissions done or made by the Eligible Person in his or her capacity as an Eligible Person; or
 - (b) were not done or not made in good faith; or
 - (c) were not based on the reasonable belief that such acts or omissions were lawful and in the best interests of the Corporation,

the Eligible Person shall not be eligible for indemnification under this By-law, and shall be required to reimburse the Corporation for all funds paid on the Eligible

ATTACHMENT 3

Person's behalf pursuant to this By-law within 90 days of such a determination.

- (3) An Eligible Person is not entitled to indemnification under this By-law and must reimburse the Corporation for any legal fees paid by the Corporation in respect of a Legal Proceeding if:
 - (a) the Eligible Person is convicted of an offence in the case of a Legal Proceeding under section 1(h)(ii); or
 - (b) In the case of a proceeding brought under section 8 of the *MCIA*, the member of Council or local board has been found to have contravened section 5, 5.1 or 5.2 of the *MCIA*; or
 - (c) In the case of a Code Complaint, where a contravention has been found, unless:
 - (i) the contravention has occurred by reason of inadvertence; or
 - (ii) the contravention has occurred by reason of a bona fide error in judgment; or
 - (iii) the referral of the matter is frivolous, vexatious or not made in good faith and the Integrity Commissioner dismisses the complaint without an investigation, or determines that there are no grounds or insufficient grounds for an investigation; or
 - (iv) where it becomes apparent in the course of an investigation that there are insufficient grounds to continue the investigation, the Integrity Commissioner terminates the investigation and dismisses the complaint.
- (4) If an Eligible Person receives a payment through a costs award or settlement in respect of a Legal Proceeding for which the City has indemnified the Eligible Person, such amounts must be paid to the City upon receipt by the Eligible Person.
- (5) The City Solicitor, acting reasonably, may request or impose one or all of the following:
 - (a) Budgets for anticipated legal expenses; and/or
 - (b) Status Updates in respect of the progress of the proceedings; and/or
 - (c) A limit on quantum of indemnification.
- (6) If there is a dispute between the City Solicitor, acting reasonably, and the Eligible Person with respect to the account for legal expense payments, the City Solicitor may require that such account for reimbursement be assessed by a Court Assessment Officer prior to payment by the Corporation.
- (7) The City Solicitor shall be provided with copies of the statements of account on a monthly basis, which shall outline all fees and disbursements, and shall be

ATTACHMENT 3

provided with information relating to these accounts, as may be requested from time to time, in order to determine reasonableness of the account before any payment would be made.

Section 6 - Failure to Comply with By-law / Exclusions

- (1) If an Eligible Person who has been approved to receive indemnification fails or refuses to comply with any of the provisions of this By-law, or in the event of one or more of the following:
 - (a) the Eligible Person or his or her lawyer takes a step which is unnecessary, or otherwise prejudicial to the conduct of the Legal Proceeding, as determined by the City Solicitor; or
 - (b) the quantum of indemnification exceeds the Budget referred to in section 5(5); or
 - (c) the maximum amount of indemnification approved has been paid, or
 - (d) the Eligible Person commences a counterclaim, crossclaim, third party claim, application for judicial review, or other proceeding related to the Legal Proceeding for which reimbursement is sought, without first obtaining prior approval from the City Solicitor,

then the Corporation shall not be liable to assume or pay any of the costs, damages, expenses, monetary penalty or other sums as set out in this By-law.

Section 7 - Appeal

- (1) Notwithstanding other provisions of this Bylaw, where a person seeks to appeal or bring an application for judicial review with respect to a judgment or decision in a Legal Proceeding covered by this By-law, the Corporation shall have the sole discretion to determine whether the expenses of the appeal or judicial review will be covered by this By-law. If an individual pursues an appeal or application for judicial review without representation by the Corporation and is successful in that appeal, the Corporation shall have sole discretion to determine whether the Eligible Person shall be indemnified for his or her legal expenses.

Section 8 - Executive Acts Authorized

- (1) The City Solicitor is authorized to execute any necessary documents on behalf of the Corporation in order to give effect to this By-law according to its true intent and meaning.
- (2) Nothing in this By-law shall prevent the City Solicitor from bringing a report to Council to seek direction on any matter related to indemnification.

ATTACHMENT 3

Section 9 - Repeal

- (1) By-law 91-2011, as amended, is hereby repealed.

Section 10 - Force and Effect

- (1) This By-law comes into force on the day it is passed. For greater certainty:
- (a) For ongoing Legal Proceedings where the Corporation has assumed the defence of the matter on behalf of an Eligible Person, the City will continue to defend the Legal Proceeding on the Eligible Person's behalf, subject to the terms of this By-law.
 - (b) For all Legal Proceedings where indemnification was authorized under Bylaw 91-2011, as amended, those existing indemnification approvals will continue under this By-law, and be subject to the terms of this By-law.
 - (c) For ongoing Legal Proceedings in which an Eligible Person was required to retain their own counsel, including Code Complaints filed with the Integrity Commissioner prior to the enactment of this By-law where a final disposition has not been rendered, the provision of this By-law will apply.

Enacted by City of Vaughan Council this 11th day of March, 2020.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Authorized by Item No. 10 of
Report No. 11 of the Committee
of the Whole
Adopted by Vaughan City
Council on March 9, 2020

Committee of the Whole (2) Report

DATE: Monday, March 09, 2020

WARDS: ALL

**TITLE: BILL 108 UPDATE
REGULATORY PROPOSAL REGARDING THE COMMUNITY
BENEFITS CHARGE AUTHORITY**

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor
Michael Coroneos, Deputy City Manager, Corporate Services and Chief Financial Officer
Bill Kiru, Acting Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

This report provides an analysis of ERO No. 019-1406 (the “Proposal”), a Provincial proposal regarding regulatory matters under the *Planning Act*, the *Development Charges Act* (the “DCA”), and the *Building Code Act* which have the potential to impact the City’s finances, service levels and land use planning matters.

Report Highlights

- The Proposal pertains to the community benefits charge (“CBC”) authority and is the Province’s second regulatory Proposal on the matter
- The proposal is subject to a 31-day consultation period, closing on March 30, 2020
- A realignment between the CBC regime and the DCA funding framework is proposed in comparing the initial proposal
- The structure and amount of the prescribed percentage cap for the CBC is deficient and will not result in the intended revenue neutrality, resulting in significant impact on the City’s ability to deliver community services
- Staff are seeking Council’s approval to issue further comments to the Province on Bill 108 related matters and the Proposal

Recommendations

1. THAT staff be authorized to make submissions to the Province on the Environmental Registry of Ontario posting as outlined in this report;
2. THAT staff be authorized to provide additional submissions to the Province regarding the community benefits charge authority as necessary in support of the City's interest;
3. THAT in order to meet the proposed transition deadline for a community benefit charge strategy and by-law, that Hemson Consulting Ltd. be retained through a single source contract at an estimated cost of \$95,000.00 excluding contingency and applicable taxes to provide consulting services and undertake the necessary work to establish a community benefit charges strategy and by-law for the City; and
4. THAT any requirements to activate contingencies following the award of the contract to Hemson Consulting Ltd. will be dealt with in accordance with the provisions provided for in the City's Corporate Procurement Policy PS-003.

Background

On February 28, 2020 the Ministry of Municipal Affairs and Housing ("MMAH") posted the Proposal regarding regulatory matters pertaining to the CBC authority introduced via Bill 108, *More Homes, More Choices Act, 2019*. Bill 108 was introduced by MMAH on May 2, 2019 and received Royal Assent on June 6, 2019.

Bill 108 amends the *Planning Act* and the DCA, and establishes a new authority under the *Planning Act* for municipalities to charge for community benefits. Substantive changes to both acts were made to replace existing density bonusing requirements (Section 37), parkland requirements, and soft service requirements with one charge known as the CBC. The changes to the DCA have a direct effect on the services eligible for funding through CBCs under the *Planning Act*. Pursuant to the revised *Planning Act*, CBCs can be used to fund development-related costs for services that are ineligible for funding under the DCA.

On November 9, 2019, amendments to the CBC provisions under the *Planning Act* were introduced through the *Plan to Build Ontario Together Act, 2019* ("Bill 138"). Bill 138 received Royal Assent on December 10, 2019. The amendments include new transition provisions for alternative parkland dedication and a mechanism to appeal a municipality's CBC by-law to the Local Planning Appeal Tribunal.

On January 1, 2020 several amendments to the DCA introduced through Bill 108 came into force, including the freezing of development charge rates at site plan or zoning application and the phasing of development charge payments for certain types of

development. The CBC authority however has not been proclaimed and is not in effect at this time.

This Proposal is the second regulatory Proposal posted regarding components of a new CBC authority. The first proposal (ERO No. 019-0183) was posted on the Environmental Registry of Ontario (“ERO”) on June 21, 2019 and the City provided comments through staff via a communication from Corporate Communications to the Province through the ERO posting. The Province had advised through the initial Proposal that it was the Province’s intent to ensure that the implementation of the CBC will result in municipalities remaining revenue neutral. The comments provided to the Province by staff expressed concern that the proposed regulations would not result in revenue neutrality and sought clarity from the Province on a number of matters.

This Proposal provides some clarity. Specifically, this Proposal confirms that where a municipality has a CBC by-law in place it cannot apply the basic parkland dedication provisions of the *Planning Act*.

“A municipality could choose to collect development charges to fund the development of new park facilities or enhance existing parks such as playgrounds and splash pads. To acquire the land needed to build new parks, a municipality would have the option of using one of the following tools under the Planning Act:

1. A municipality could apply the basic parkland dedication rate in which a maximum of either 5% (for example, for a residential development) or 2% (for a commercial or industrial development) of a proposed development is dedicated as parkland or cash-in-lieu is provided (section 42 “Conveyance of land for park purposes” and section 51.1 “Parkland” under the Planning Act).

2. Alternatively, a municipality could establish a community benefits charge by-law to collect funds to acquire land for parks as well as other community services such as affordable housing and childcare. If both a developer and municipality agree, a developer could provide land for parks (rather than a payment). The agreed-upon value attributed to the in-kind parkland contribution would be applied toward the community benefits charge payable.”

To implement the new CBC authority, the Province is seeking further feedback through this Proposal on the following regulatory matters under the *Planning Act*, the *DCA* and the *Building Code Act*.

1. Required content of a community benefits charge strategy;
2. Services eligible to be funded through development charges;

3. Percentage of land value for determining a maximum community benefits charge;
4. Timeline to transition to the new community benefits charge regime;
5. Community benefits charge by-law notice;
6. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed; and
7. Building code applicable law.

Previous Reports/Authority

June 4, 2019 Committee of the Whole Report entitled “Analysis – Ontario Government’s Bill 108 and Bill 107.

<https://pub-vaughan.escrimemeetings.com/filestream.ashx?DocumentId=17200>

Analysis and Options

The consultation regarding this Proposal may serve as the City’s final opportunity to provide comments before actual regulations implementing the CBC authority are released. To properly advise as to the impact, the actual regulations are required. Based on the proposals received to date regarding the CBC, the City anticipates impacts on the City’s:

- Finances associated with the acquisition of parkland and service-in-kind;
- Ability to secure local parkland and maintain services levels in urban growth areas;
- Ability to off-set community impact of density bonussing; and
- Ability to provide City-wide community facilities.

The following is a summary of the matters for which the Province is seeking feedback on and the preliminary staff position.

1. Required content of a community benefits charge strategy

A CBC strategy is a precondition to the passage of a CBC by-law. The proposed contents of the strategy are as follows:

- i. The anticipated type, amount and location of development or redevelopment that would be subject to a community benefits charge;*
- ii. The anticipated increase in the need for a specific community service (for example, the acquisition of land for parks, affordable housing, child-care, etc.) resulting from new development or redevelopment;*
- iii. A parks plan that examines the need for parkland in the municipality;*

- iv. *The amount of parkland per person currently being provided in the municipality, and if this is planned to increase, decrease or stay the same;*
- v. *The capital costs associated with the increased need for a specific community service resulting from new development or redevelopment;*
- vi. *The excess capacity that exists in those specific services (for example, the extra capacity that exists in a service that is not currently being used);*
- vii. *Whether the increased provision of those specific services would also serve existing residents (for example, existing residents may also benefit from new child-care facilities that are needed as a result of new development or redevelopment); and*
- viii. *Any capital grants, subsidies, or contributions from other levels of government or other sources like donations that are anticipated to be made to support those specific services.*

The requirements included in the Proposal appear to marry the requirements for a development charges background study and the requirements for a parkland by-law which allows a municipality to charge the alternative rate for parkland. It is also proposed that the same services that would be considered ineligible under the *DCA* would also be considered ineligible under the new CBC regime.

Given the broad scope of the study requirements, and the similarities to those required under the *DCA*, the expertise of an external consultant (who has experience commissioning development charges background studies) is required, and the competition amongst municipalities in Ontario to retain same will be high. Timely completion of a CBC strategy and by-law is essential to avoid loss of revenues.

The requirement for a parks plan had been previously explored by the City in response to Bill 73, the *Smart Growth for our Communities Act, 2015*. The Active Together Master Plan (“ATMP”) is the City’s strategic plan for parks, recreation and libraries that examines the need for parkland in the municipality. In addition, the City developed the 2018 Park Redevelopment Strategy (“PRS”), a comprehensive study to guide the renewal and redevelopment of parks across the City. Any changes to the City’s existing parkland dedication and cash-in-lieu policies, by-laws and guidelines to the CBC regime will require a review and update to the existing strategic plans for park development and redevelopment.

The planned review and update to both the ATMP and PRS was scheduled to commence in 2021 and 2022 respectively, with a completion timeline in Q1-2023.

However, due to the proposed changes under Bill 108, the City intends to develop a CBC strategy and by-law which will include information required to assess the acquisition, development and redevelopment of parkland. This work will include the review of the prioritization of underserved areas due to new planned growth, recommend methodology for setting short and long-term parkland priorities to reflect demographics, existing development areas, current development patterns and future development plans to comply with Bill 108 and any related regulations.

It is recommended that Council authorize staff to retain Hemson Consulting Ltd. (“Hemson”) now with respect to the CBC strategy and by-law so as to ensure that the City is well positioned to meet the proposed transition deadline (details regarding proposed transition contained below). The estimate provided by Hemson is \$95,000 excluding contingency and applicable taxes. It should be noted that these costs might change as additional information is provided by the Province. Staff will provide further updates once the final regulations are released, should there be impacts on the scope of work and costs.

Hemson is well positioned to assist the City in meeting the new statutory requirements. They are very familiar with development charges in Vaughan, having completed the City’s most recent Development Charges Background Study. Moreover, they have worked closely with municipalities and the Province during the Bill 108 and Bill 138 consultation process.

2. Services eligible to be funded through development charges

The Province proposes that the following services be identified in a regulation under subsection 2(4) of the *DCA* and eligible for funding through development charges:

- i. Public libraries, including library materials for circulation, reference or information purposes;
- ii. Long-term care;
- iii. Parks development, such as playgrounds, splash pads, equipment and other park amenities (but not the acquisition of land for parks);
- iv. Public health; and
- v. Recreation, such as community recreation centres and arenas.

Many of these general “soft” services were originally proposed to be transferred from the DCA to the new CBC regime, but are now proposed to remain under the DCA funding framework. This is significant and seen as a positive improvement over the initial proposal. These proposed services would be ineligible to be funded through CBCs.

It is also proposed that development charges may be imposed to fully recover the capital costs related to the provision of these proposed services due to new growth. The 10% discount under the previous legislation would no longer apply. This is also seen as a positive for municipalities.

3. Percentage of land value for determining a maximum community benefits charge

The Proposal provides that the percentages of land value that would be prescribed in regulation under the *Planning Act* would be as follows:

- single-tier municipalities: 15%
- lower-tier municipalities: 10%
- upper-tier municipalities: 5%

The Proposal also provides that the CBC levied by a municipality could not exceed the amount determined by applying the applicable proposed percentage to the value of the land that is subject to development. The land value would be calculated as of the valuation date, which is the day before the date the building permit is issued in respect of the development or redevelopment.

The Proposal further provides that CBCs levied by municipalities would support the growth-related capital costs of acquiring land for parks, and other community benefits required because of development. These include matters such as child-care facilities, affordable housing, social services, parking and by-law enforcement. The Proposal provides that there would need to be a connection between the CBC levied and the increased need for community services associated with new development.

The percentage cap prescribed to lower-tier municipalities in the Proposal would significantly impact the City's ability to collect and maintain revenue neutrality in connection to local and city-wide growth-related parkland, cash-in lieu collections, community improvements (Section 37, height and density bonusing) and contributions that enhance the urban character of a development. Density bonussing contributions benefit the community for the increased height and/or density permitted over and above the base heights and densities permitted by the Official Plan for a particular area. This injection of municipal service benefits is important from a financial perspective to help ensure that impacts on existing taxpayers are mitigated when increased service levels are required in intensification scenarios.

Based on historical collections, a 10% cap on CBCs would represent a significant impact to service levels in regional, primary and local urban growth centres and

corridors. The revenue impact is estimated to result in a significant collection deficit for the City. Attachment No. 1 provides an illustrative demonstration of the impact. The proposed 10% cap on land value across the City would result in a higher or lower deficit depending on the scale of the development. In cases of high-rise, the deficit becomes larger than would be the case with low-rise development. This may result in arguments that low-rise development is subsidizing the lost revenue of high-rise development.

If the Province prescribes a 10% cap as proposed, the City would need to review alternative options to address the impact. Examples include: creating a reserve fund, funded through taxation to support new urban growth/intensification areas; reducing the levels of services provided in new urban growth/intensification areas; and/or seeking alternative funding to offset the decline in revenue under the CBC regime.

4. Timeline to transition to the new community benefits charge regime

In the initial June 2019 ERO posting, the proposed date for which municipalities would have to transition to the CBC regime was January 1, 2021. Staff provided comments indicating that meeting this date would be challenging given the extent of uncertainty due to the actual regulations not being provided.

It is now proposed that the specified date for municipalities to transition to the CBC regime would be one year after the date the proposed CBC regulation comes into effect. The Province submits that this transition period would allow municipalities time to prepare CBC strategies and pass by-laws (if they choose to implement a CBC regime).

Staff maintain that this transition deadline remains challenging. There are still many areas of uncertainty, and some of the previous questions posed by staff have yet to be answered. Having more clarity around the CBC regime and involving City staff more fully in the consultation process would help better prepare the City to meet the proposed transition date.

5. Community benefits charge by-law notice

To implement the appeal mechanism introduced through Bill 138, the Proposal provides that upon passage of a CBC by-law that a municipality would be required to comply with prescribed notice provisions. The proposed provisions are similar to the notice provisions under the DCA regarding the passage of a development charges by-law, and staff have no concerns regarding the prescription of notice.

6. Minimum interest rate for community benefits charge refunds where a by-law has been successfully appealed

The Proposal provides that the minimum interest rate a municipality would be required to pay on amounts refunded after successful appeals would be the Bank of Canada rate on the date the CBC by-law comes into force. Alternatively, if the municipality's CBC by-law so provides, the minimum interest rate would be the Bank of Canada rate updated on the first business day of every January, April, July and October. This aspect of the Proposal aligns with the prescribed minimum interest rate for refunds of development charges after successful appeals under the DCA, and staff have no concerns regarding the minimum interest rate.

7. Building code applicable law.

The Proposal provides that the Building Code be amended to add the CBC authority to the list of items under Division A - Article 1.4.1.3 Definition of Applicable Law. This amendment would establish a mechanism for ensuring the payment of CBCs prior to the issuance of a building permit. Given the introduction of an appeal provision, the municipality's ability to keep a required CBC is subject to challenge.

Financial Impact

Two capital projects were approved as a part of the 2020 Budget to facilitate the development of a CBC strategy and by-law based on the Bill 108 amendments to the *Planning Act* and the DCA. The CBC strategy will form part of the CBC by-law guiding the City's administration and Council in decision-making. The approved projects include: BU-2560-20, Bill 108 Related Studies (\$515,000.00); and PK-6653-20, Parks Planning CBC Strategy and By-law (\$165,000.00). This should provide sufficient funding to complete all of the required studies ahead of the passing of a CBC by-law.

Broader Regional Impacts/Considerations

The Proposal confirms that the Region is also able to pass a CBC by-law to collect for eligible services that would fall under their purview. If the Region chooses to pass a CBC by-law, City staff will be required to act as an agent of the Region and collect the charges on their behalf. City Staff have been working closely with the Region to implement the portions of Bill 108 that have already come into force and will continue to do so as further legislative changes are finalized.

Conclusion

Staff seek Council approval to provide feedback on the implementation of the CBC authority in order to inform the Province of staff comments and concerns regarding the development of the CBC regulations under the *Planning Act* and amendments to the regulations under the DCA and *Building Code Act*.

This latest Proposal addresses some of the concerns raised during the first comment period related to maintaining development charge eligible soft services and the allowance for 100% development charge funding for soft services. More clarity has been provided regarding the CBC strategy content, service eligibility and administrative requirements which is appreciated.

Staff have significant concerns and require further clarification regarding the proposed percentage cap in order to maintaining revenue neutrality, ensuring that growth pays for growth and service levels are maintained. Further clarification is required on the proposed percentage and implementation of the required strategy across the City. The full extent of the impact of this percentage cap may not be known for some time. Staff will provide a further report regarding detailed implementation considerations following the release of the regulations by the Province.

For more information, please contact: Nelson Pereira, Manager, Development Finance, extension 8393.

Attachments

1. Parkland Dedication and Collection Changes Illustration, March 6, 2020

Prepared by

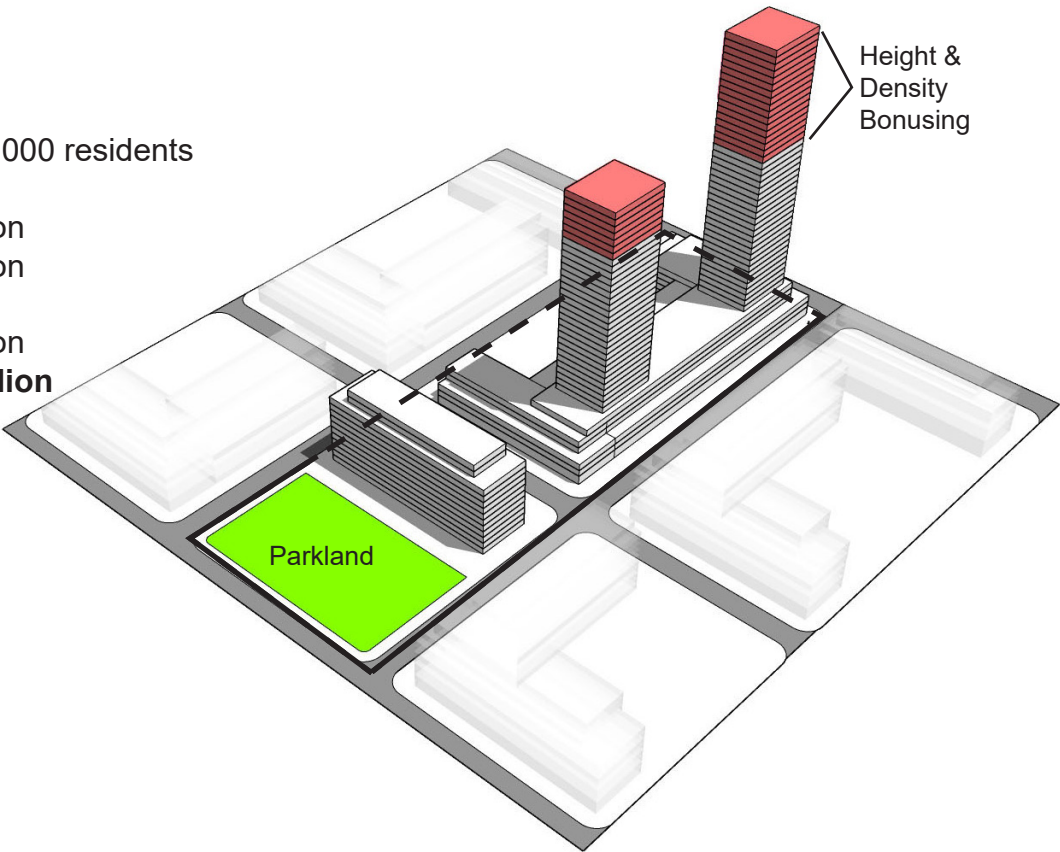
Caterina Facciolo, Deputy City Solicitor, Planning and Real Estate Law, extension 8862
Martin Tavares, Interim Director of Parks Planning, extension 8882
Brianne Clace, Project Manager, Development Finance, extension 8284

CURRENT COMMUNITY BENEFITS

Development Scenario for Illustrative Purposes

Land Area: 3 Ha
Proposed units: 1,100
Total Populaton¹: 2,178
Dedicated parkland: 0.6 Ha
Parkland Provision: 0.28 Ha/1000 residents

Value of Parkland²: \$8.9 Million
Payment in Lieu³: \$7.8 Million
Height & Density
Bonusing⁴: \$2.0 Million
Total Value: \$18.7 Million

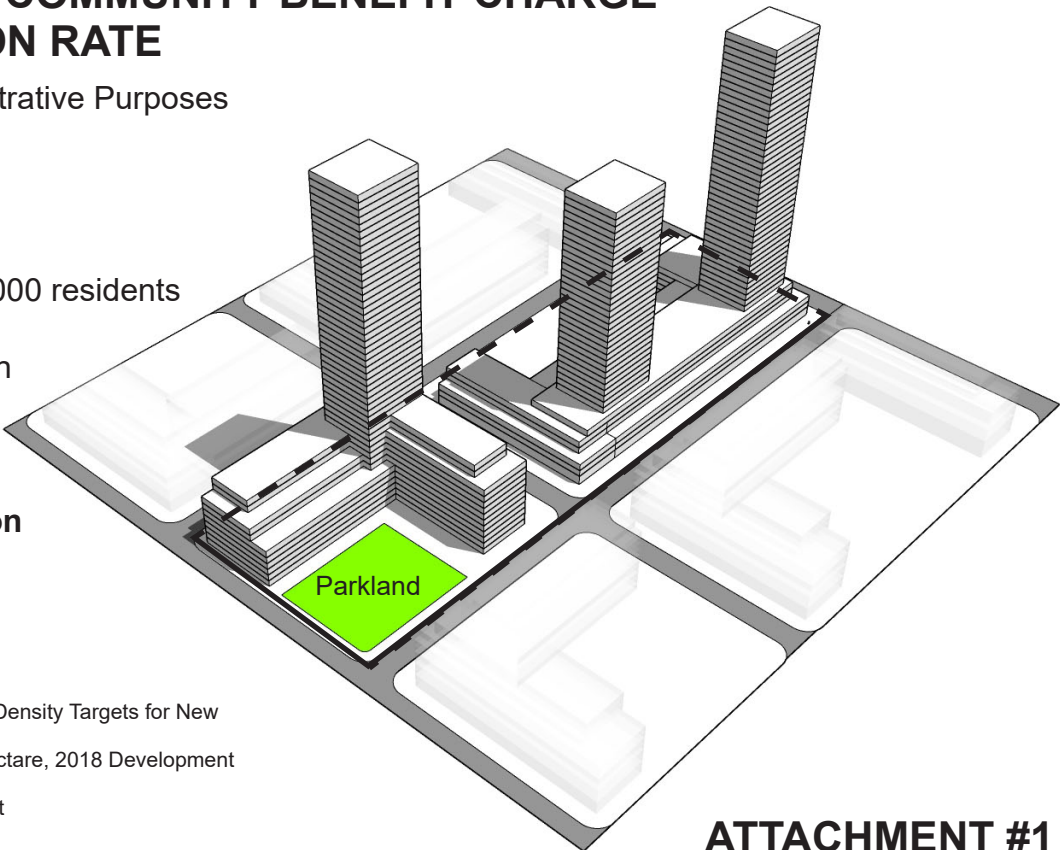


PROPOSED BILL 108 COMMUNITY BENEFIT CHARGE 10% CAP COLLECTION RATE

Development Scenario for Illustrative Purposes

Land Area: 3 Ha
Proposed units: 1,600
Total Populaton¹: 3,168
Dedicated Parkland: 0.3 Ha
Parkland Provision: 0.09 Ha/1000 residents

Value of Parkland³: \$4.4 Million
Payment in Lieu: \$0 Million
Height & Density
Bonusing: \$0 Million
Total Value: \$4.4 Million



Notes:
1- Based on 1.98 persons per unit, Achieving Density Targets for New Communities in York Region, 2014
2- Land value assumed to be \$14.8 Million/Hectare, 2018 Development Charge Background Study assumptions
3- Based on a collection rate of \$8,500 per unit
4- Assumed collection value

Committee of the Whole (2) Report

DATE: Monday, March 09, 2020

WARD(S): ALL

**TITLE: PROCLAMATION AND FLAG RAISING REQUEST
WORLD AUTISM ACCEPTANCE DAY**

FROM:

Wendy Law, Deputy City Manager, Administrative Services and City Solicitor

ACTION: DECISION

Purpose

To seek Council approval to proclaim April 2, 2020 as World Autism Acceptance Day, that the City of Vaughan participate in a flag raising event at City Hall with Autism Ontario, and that the proclamation be posted on the City's website and the Corporate and Strategic Communications department be directed to promote this proclamation and flag raising through the corporate channels.

Report Highlights

- Respond to the request received from Autism Ontario, received on March 2, 2020.
- Proclamation requested for April 2, 2020 and flag raising event requested on or around the same date.

Recommendations

1. That April 2, 2020 be proclaimed as "World Autism Acceptance Day";
2. That the City of Vaughan participate in a flag raising event at City Hall with Autism Ontario to celebrate World Autism Awareness Day on a date and time to be determined; and,
3. That the proclamation be posted on the City's website and the Corporate and Strategic Communications department be directed to promote this proclamation and flag raising through the corporate channels.

Background

Autism Ontario is a prominent collective voice in representing the autism community in York Region. They are dedicated to increasing public awareness about autism and the day-to-day issues faced by individuals with autism, their families, and the professionals they interact with.

Council has previously granted this request.

Previous Reports/Authority

[Council – March 19, 2019](#)

Analysis and Options

The proclamation request meets the requirements of the City's Proclamation Policy and Flag Raising/Half Mastings Policy, as follows:

"That upon request, the City of Vaughan issue Proclamations for events, campaigns, or other similar matters: If the event, campaign or declaration is directly related to matters over which the City has jurisdiction or the City directly sponsors the event, campaign or other matter"; and

"Flags of non-partisan, non-profit, charitable organizations shall be flown at the City of Vaughan Civic Centre upon a written request to the City Clerk submitted one month in advance on the understanding that the individual flag will not be flown for a period longer than one week".

Financial Impact

Not applicable.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff is recommending that April 2, 2020 be proclaimed as World Autism Acceptance Day, that the City of Vaughan participate in a flag raising event at City Hall with Autism Ontario on a date and time to be determined, and that the proclamation be posted on the City's website and the Corporate and Strategic Communications department be directed to promote this proclamation and flag raising through the corporate channels

For more information, please contact: Todd Coles, City Clerk, ext. 8281

Attachment

1. Correspondence from Chair, Raise the Flag Campaign, dated March 2, 2020

Prepared by

Julia Bartolomeo, Supervisor, City Clerk's Administrative Services, ext. 8280

City of Vaughan - Clerk's Office
2141 Major MacKenzie Drive
Vaughan, ON L6A 1T1



RECEIVED

MAR 02 2020

CLERK'S DEPT.

March 2, 2020

To Whom It May Concern:

Please find attached the Request for Proclamation for the upcoming World Autism Awareness Day that we will be celebrating on April 2, 2020

Autism Ontario is the leading source of information and referral on autism in the York Region, and one of the largest collective voices representing the autism community. Members are connected through a volunteer network of chapters throughout the Province of Ontario.

We are guided by a Board of Directors, composed primarily of parents of individuals with autism, plus a host of volunteers and respected professionals who provide expertise and guidance to the organization on a volunteer basis.

Autism Ontario is dedicated to increasing public awareness about autism and the day-to-day issues faced by individuals with autism, their families and the professional with whom they interact. The association and its chapters share common goals of providing information and education, supporting research and advocating for programs and services for the autism community.

Our York Region chapter proudly serves 11,000 individuals with autism and their families living in the region. We would like to count the City of Vaughan as a community partner that will join us in a flag raising.

Please let us know if you require any additional information from us.

Regards,

Rahila Chughtai
Chair; Raise the Flag Campaign
Autism Ontario York Region
[York Region - Autism Ontario](http://YorkRegion-AutismOntario.com)

PROCLAMATION

I, Mayor Bevilacqua of the City of Vaughan, do hereby proclaim April 2 as World Autism Acceptance Day

Whereas: World Autism Acceptance Day will be recognized on April 2, 2020 in Canada, thanks to Liberal Senator Jim Munson's Bill S-206, *An Act Respecting World Autism Awareness Day*; and

Whereas: Autism Spectrum Disorder (ASD) affects more than 100,000 Ontarians. Autism Spectrum Disorder is now recognized as the most common neurological disorder affecting 1 in every 94 children, as well as their friends, family and community; and

ASD is a spectrum disorder, which means it not only manifests itself differently in every individual in whom it appears, but its characteristics will change over the life of each individual as well. A child with ASD will become an adult with ASD; and

Autism Ontario (formerly Autism Society Ontario) is the leading source of information and referral on autism and one of the largest collective voices representing the autism community. Since 1973, Autism Ontario has been providing support, information and opportunities for thousands of families across the province; and

Whereas: Autism Ontario is dedicated to increasing public awareness about autism and the day-to-day issues faced by individuals with autism, their families, and the professionals with whom they interact. The association and its chapters share common Goals of providing information and education, supporting research, and advocating for programs and services for the autism community; and

Therefore I, Mayor Bevilacqua, hereby declare April 2nd as World Autism Acceptance Day.

Dated at Vaughan, Ontario this 2nd day of April, 2020

Committee of the Whole (2) Report

DATE: Monday, March 09, 2020

WARD(S): ALL

**TITLE: PROCLAMATION REQUEST - NATIONAL PROCUREMENT
MONTH – MARCH**

FROM:

Michael Coroneos, Deputy City Manager, Corporate Services and Chief Financial Officer

ACTION: FOR INFORMATION

Purpose

To request that Council proclaim the month of March as “National Procurement Month” on an annual basis.

Report Highlights

- Each year, March is recognized as National Procurement Month by various Public Procurement Associations in North America.
- Celebrations throughout the month of March are dedicated to honouring procurement professionals and recognizing their commitment to the profession.

Recommendations

1. That the month of March be proclaimed as National Procurement Month, on an annual basis.

Background

Global public procurement spend is estimated at around \$8.5 trillion USD annually, representing an average of 13% of GDP and makes up about one third of total government expenditures in The Organization for Economic Co-operation and Development (OECD) countries.

Behind these significant numbers are procurement professionals working diligently to ensure transparency, fairness, competition, and best value for public funds.

During the fiscal year 2019, Procurement Services at the City of Vaughan supported client departments with 363 procurement transactions totaling \$92 million, representing a 30% increase in procurement value over the previous fiscal year.

National Procurement Month – March, on an annual basis, is a time to celebrate the role of the public procurement profession and acknowledge an elite group of professionals that have made a difference in governmental efficiency and effectiveness.

Previous Reports/Authority

Not applicable.

Analysis and Options

National Procurement Month – March, on an annual basis, presents an opportunity to recognize the importance of procurement's work and the impact it has on society.

The Procurement Service team at the City of Vaughan is modernizing the sourcing process and collaborating with client departments in delivering the services and infrastructure that make up our public lives.

New technologies continue to evolve procurement, creating a more efficient approach to strategic sourcing. With the shift towards strategic sourcing, e-procurement bid, contract management and vendor management software save the organization time so that it can focus on service excellence initiatives and supplier relationships.

The underlying theme for all activities during National Procurement Month – March is the promotion and recognition of the field of Public Procurement, honouring procurement professionals and recognizing their commitment to the profession.

Financial Impact

There is no financial impact with respect to this report.

Broader Regional Impacts/Considerations

Not applicable.

Conclusion

Staff is recommending that March be proclaimed as National Procurement Month on an

annual basis, and that the Corporate and Strategic Communications department be directed to promote the proclamations through the various corporate channels.

For more information, please contact: Asad Chughtai, Director of Procurement Services, ext. 8306.

Attachments

None

Prepared by

Nick LaRocca, Project Manager, Procurement Services, ext. 8018.

MEMBER'S RESOLUTION

Meeting/Date	COMMITTEE OF THE WHOLE – March 9, 2020
Title:	REQUEST FROM CONMAR DEVELOPMENTS INC. & FENLANDS VAUGHAN INC., DG GROUP AND LORWOOD HOLDINGS FOR MINISTER'S ZONING ORDER FOR THE DECLASSIFICATION OF PROVINCIALY SIGNIFICANT WETLANDS IN BLOCK 34 EAST
Submitted by:	Mayor Maurizio Bevilacqua

Whereas, Vaughan Council received a communication from Conmar Developments Inc. & Fenlands Vaughan Inc. in cooperation with DG Group and Lorwood Holding Inc. dated February 27, 2020 [Attachment 1] and an Addendum dated March 4, 2020 (Attachment 2) which advises Council that Conmar Developments Inc. and Fenlands Vaughan Inc. in cooperation with DG Group and Lorwood Holdings has formally requested from the Province a Minister's Zoning Order for the reclassification of Provincially Significant Wetlands located in the Block 34 East Planning Area to allow for the Subject Lands to be developed for Employment Uses, specifically a Distribution Facility on the Conmar Developments Inc. & Fenlands Vaughan Inc. lands; and

Whereas, the proposed Employment Use is consistent with the policies of the Provincial Policy Statement 2014 and conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019 by locating an Employment Use in a settlement area, in proximity to a major goods movement facility (Highway 400) and utilizes existing and planned infrastructure; and

Whereas, the York Region Official Plan 2010 (the 'YROP') guides economic, environmental and community building decisions across York Region. The Subject Lands are designated as "Urban Area" on the YROP Map 1 "Regional Structure" and shown as a Strategic Employment Lands on YROP Figure 2; and

Whereas, the Subject Lands are located in the Block 34 East Planning Area known as the Highway 400 North Employment Lands Secondary Plan included as Section 11.4 of Volume 2 of the Vaughan Official Plan 2010 and designed as General Employment, and Mixed/Use Area - Employment/Commercial; and

Whereas, the Ministry of Natural Resources and Forestry (MNRF) has identified wetlands located on the subject property as part of the Provincially Significant East Humber River Wetland Complex; and,

Whereas, it is the opinion of the applicant's qualified environmental consultant that the wetlands do not meet the criteria of significance; and

Whereas, compensation for the area of wetland removal on the Conmar Developments Inc. and Fenlands Vaughan Inc. lands will be achieved by wetland relocation/creation on the Block 34 East Phase 1 lands adjacent to an existing natural heritage system; and

Whereas, the Toronto and Region Conservation Authority and Ministry of Natural Resources and Forestry have provided support for the enactment of the Minister's Zoning Order; and

Whereas, the proposed Distribution Centre is a significant economic investment for the City of Vaughan which includes quality employment opportunities; and

Whereas, the Minister of Municipal Affairs and Housing has the power to enact and impose a Zoning Order on any land in Ontario, in accordance with Section 47 of the *Planning Act* and the development of these Employment Lands are of significant importance to the City of Vaughan, the Regional Municipality of York, and the Province of Ontario.

It is therefore recommended:

- 1. That Council supports and has no objection to the Minister of Municipal Affairs and Housing to issue a Minister's Zoning Order, for the zoning to be in place to allow for the Subject Lands to be developed for Employment Uses, specifically a Distribution Facility on the Conmar Developments Inc. & Fenlands Vaughan Inc. lands; and,**
- 2. That this resolution be forwarded to the Minister of Municipal Affairs and Housing as a statement of Council's direction and requests; and copied to the Regional Municipality of York, Toronto and Region Conservation Authority, and Ministry of Natural Resources and Forestry; and,**
- 3. That Council ratify the action taken.**

Respectfully submitted,

Mayor Maurizio Bevilacqua, P.C.

Attachments

1. Letter to Mayor and Members of Council, dated February 27, 2020
2. Addendum Letter to Mayor and Members of Council, dated March 4, 2020
3. Subject Lands Containing the Provincially Significant Wetlands

February 27, 2020
Mayor Maurizio Bevilaqua and Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

Dear Mayor and Council

As you and Council are aware, Conmar Developments Inc. and Fenlands Vaughan Inc. ("Conmar/Fenlands"), in cooperation with DG Group and Lorwood Holdings Inc. ("DG Group/Lorwood"), have filed applications with the City of Vaughan seeking approval for a major distribution facility north of Teston Road between Highway 400 and Jane Street.

We have been working diligently and cooperatively with staff at the City to expedite this application, which will bring significant economic, social and a myriad of other benefits to the City. To date, we have insisted on a thorough approach to our work and excellence in design so as to construct a leading-edge facility for the City. The investment in the land, buildings, infrastructure, robotic equipment, and employment training will exceed \$500 Million. Further, this site will be home to some 2,000 quality employment opportunities within this world class facility, located in the heart of the City.

The policies of the Provincial Policy Statement (2014) and A Place to Grow (2019) support economic development and competitiveness by providing an appropriate range and mix of employment uses to meet long-term needs, and integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment.

The Conmar/Fenlands and DG Group/Lorwood lands (the "subject lands") are cumulatively approximately 112 hectares (276 acres) in size and generally comprise the southerly half of Block 34 East which is a vital employment area in the City of Vaughan.

The York Region Official Plan (2010) (YROP) designates the subject lands as an 'Urban Area'. Further, the subject lands are designated 'Strategic Employment Lands' in the YROP. Strategic Employment Lands are to be prioritized and developed for employment uses and help to achieve the employment growth targets of the Growth Plan. The YROP states that it is the policy of Council to "protect strategic employment lands. These lands are identified based on their proximity to existing or planned 400-series highways and shall be designated for employment land uses in local municipal official plans" (Section 4.3.6).

The City of Vaughan's Official Plan (2010) (VOP) designates Block 34 East primarily as 'Employment Areas' within the limits of the Urban Boundary. The VOP further designates the subject lands as being within the Highway 400 North Employment Lands Secondary Plan (OPA 450, as amended by OPA 647). The Secondary Plan designates the subject lands for a range of employment and commercial uses.

From the outset, we have recognized that three small wetlands on the subject lands are identified by the Ministry of Natural Resources and Forestry (MNRF) as Provincially Significant Wetlands (PSWs). The two adjacent PSWs in the northwest corner of the Conmar/Ferlands property and their required 30 metre buffers eliminate almost 200 trailer parking and staging spaces and add up to 10 acres isolated from remaining developable lands while providing little ecological value. The third PSW to the south in the DG Group/Lorwood properties is in direct conflict with the required mid-block arterial collector road.

Our Team of diversified consultants have conducted detailed field investigations and surveys of these wetlands over numerous seasons and years (between 2014 and 2019) and have concluded that the wetlands do not meet the criteria outlined in the Ontario Wetland Evaluation System (OWES) Manual to be designated as Provincially Significant Wetlands (PSWs). Our consultants' reports have been reviewed by both City staff and the staff of the Toronto Region Conservation Authority (TRCA) to come to this conclusion.

The wetlands in question are very small (0.33 ha, 0.22 ha and 0.58 ha) in area and are isolated in actively cultivated fields. One of the wetlands was determined to be better described as an upland forest as it has become a drier community over recent years. Two of the wetlands currently support invasive species (e.g., European Common Reed and Common Buckthorn), and none of the wetlands support rare species. The wetlands provide weak ephemeral inputs (i.e., tiled drainage, ploughed through and cultivated fields, highway ditch) to downstream habitat, some of which is expected to be heavily polluted with road salt and refuse due to the Highway 400 ditch. These wetlands are not providing a significant contribution in form or function to the overall PSW complex and are therefore not meeting the intent of the OWES Manual of providing important ecological benefit. Further, the recent reconstruction and significant lane widening work on Highway 400 has greatly impacted their local drainage and accelerated the degradation of the wetlands.

Our consultants have worked extensively with The Ministry of Environment, Conservation and Parks (MECP) to design a Mitigation and Compensation Plan to replicate and enhance Redside Dace (RSD) contributing habitat including the replacement and enhancement of the ecological functions of the PSWs. An on-site Compensation and Restoration Area has been designed to recreate RSD contributing habitat in the form of wetland habitat and a drainage swale. Wetland habitat will also be created on lands to the immediate south, and when combined, the area of created RSD contributing habitat (0.63 ha) will exceed the area of RSD contributing habitat that is proposed for removal (0.58 ha). Mitigation measures during construction include sediment and erosion controls; adhering to the Redside Dace fisheries timing window; detaining the first 10 mm of precipitation; and directing a portion of the storm water runoff to a downstream storm water management pond that will be designed in accordance with the "Guidance for Development Activities in Redside Dace Protected Habitat" manual, published by the MNRF. Together as cooperating landowners, we have worked to provide a significant net environmental gain to the lands in the form of more robust wetlands and terrestrial habitat. This net environmental gain far exceeds the current conditions and will significantly improve the state of the natural environment in the area.

Both the TRCA and the MECP support the approach we are taking, and the City will be ensuring the proper sequencing of the environmental mitigation and enhancement work to be undertaken by our group of companies.

The MNRF has reviewed our Compensation Plans and have commented that the Plans are indeed a net benefit to the environment. However the MNRF lacks the ability to reclassify PSWs like this in a timely manner.

In order to move the project forward to meet the required timeline of the facility's delivery, we have approached the Province about a Minister's Zoning Order (MZO), which will allow us to proceed in an expeditious timeframe. This is not the strategy we intended to pursue initially but we are left with little recourse if the project is to become a reality. The Ministry of Municipal Affairs has asked us to secure your support for the MZO under these special circumstances and due to the many benefits of the project.

As such, we respectfully request the City's support for the MZO and thank all of you so very much for your attention to this matter.

Respectfully yours,



Sam Balsamo
Vice President
Conmar Development Inc. &
Fenlands Vaughan Inc.



Robert De Gasperis
President
DG Group



Michael Guglietti
ASO
Lorwood Holdings Inc.

March 4, 2020

Mayor Maurizio Bevilaqua and Council
City of Vaughan
2141 major Mackenzie Drive
Vaughan, Ontario L6A 1T1

Via email

**Re: Minister's Zoning Order Support Request – Addendum Letter
Block 34 East, Vaughan, ON**

Savanta Inc. (Savanta) understands that the City of Vaughan has reviewed the Minister's Zoning Order (MZO) Support Request letter dated February 27, 2020 regarding applications from Conmar Developments Inc. and Fenlands Vaughan Inc. (Conmar/Fenlands), DG Group and Lorwood Holdings Inc. for a major distribution facility located on the Block 34 East lands.

This Addendum letter addresses the comments received from the City of Vaughan via email on March 3, 2020, which are related to natural heritage. Each comment is provided below in italics, with Savanta's response following the comment.

Comment #1: Environmental Planning staff note that a number of statements within the memorandum are not consistent with the Ministry of Natural Resources and Forestry's (MNRF) March 2016 correspondence regarding the ecological value of the wetland features located on the subject lands. For example, the first paragraph of page three notes "these wetlands are not providing significant contribution in the form or function to the overall PSW complex and are therefore not meeting the intent of the OWES Manual of providing important ecological benefit." However, this statement appears to directly contradict the written evaluation of the wetlands published by the MNRF in March of 2016. If the applicant is making claims that are different than the written correspondence from the MNRF (the ultimate authority when it comes to PSWs), it should be clear that these statements are the opinion of the applicant and do not necessarily reflect that of the MNRF, City or TRCA.

It is acknowledged that the MNRF continues to view the 3 small wetlands as PSWs. For the following reasons and as mentioned in the February 27, 2020 letter, Savanta is of the opinion that the wetlands do not meet the criteria outlined in the Ontario Wetland Evaluation System (OWES) Manual to be designated as PSWs. These views do not necessarily reflect those of the MNRF, City, or TRCA.

- The wetlands are small and isolated features;
- The wetlands have become degraded over recent years due to invasive species and pollution;
- A portion of wetland W181 (the most northwest PSW shown on the Figure) is currently drier compared to observations in 2014/2015, when MNRF assessed the wetlands. Savanta conducted vegetation plot surveys in 2019 and is of the opinion that the vegetation community no longer meets the definition of wetland under OWES.

- The wetlands provide weak ephemeral inputs (i.e., tiled drainage, ploughed through and cultivated fields, highway ditch) to downstream habitat, some of which is expected to be heavily polluted with road salt and refuse due to the Highway 400 ditch.
- Considering the above, Savanta is of the opinion that the wetlands are not providing a significant contribution in form or function to the overall PSW complex and are therefore not meeting the intent of the OWES Manual of providing important ecological benefit.

Comment #2: Environmental Planning staff note that in several instances, the memorandum identifies that the City and other agencies (i.e. TRCA, MNRF) agree with information and/or management approaches being provided by the applicant. We note that these statements may be mis-representing the views and opinions of City staff as well as the TRCA and MNRF. These sections should be removed and/or revised to clearly note that the information provided within the memorandum is the opinion of the applicant.

It is noted that the information provided within the February 27, 2020 letter is the opinion of the applicant and their consulting team. The proposed compensation plan has been developed with considerable input from the TRCA, MNRF, and MECP, however it is acknowledged that these agencies have not formally approved any compensation plans to date.

Comment #3: The attached Figure should be updated to clearly identify the three PSW features which form part of the complex versus the other identified wetlands that were not included as part of the complex. The three PSW features should be clearly identifiable.

The Figure (attached) has been revised to indicate those wetlands that have been identified by MNRF as PSW (Wetland Evaluated-Provincial MNRF LIO) and those wetlands that are not identified as PSW (Wetland Not Evaluated per OWES MNRF LIO).

Comment #4: We note that the memorandum should provide additional clarity as it relates to the proposed compensation strategy (page 3, paragraph 2). For example, it should be clear that the compensation taking place at the rear of the Conmar site (i.e. the 1.35 hectare Headwater Drainage Feature Compensation and Upland Enhancement Area) is to compensate for the removal of the HDF feature at the center of the property. Further, it should be noted that the wetland features to be removed will be relocated to the Block 34 E lands to the south, adjacent to the natural system. If they have not done so, the applicant may wish to have their environmental consultant (Savanta) review this portion of the memorandum to ensure accuracy of the information provided.

The Conmar/Fenlands lands will have an on-site Headwater Drainage Feature Compensation and Upland Enhancement Area that will compensate for the removal of the HDF that flows north-south through the centre of the Conmar/Fenlands property. This compensation area will include 0.51 ha of created wetland habitat along the west limit of the Conmar/Fenlands lands. Wetland features including the PSWs located on the Conmar/Fenlands property will be re-located to the Block 34 East lands to the south (DG Group/Lorwood lands), adjacent to the existing valley feature. Further, additional wetland habitat will be created adjacent to the valley feature to compensate for proposed wetland removal, including the PSW on the DG Group/Lorwood lands, totalling 1.82 ha of created wetland habitat. This will create a larger wetland area compared to the total of removed wetland habitat (1.42 ha).

These created wetlands will also provide compensation for the proposed removal of Redside Dace contributing habitat. Combined with SWM and LID measures designed by Schaeffers Consulting Engineers to provide clean and cool water to the created wetlands and downstream fish habitat, the consulting team is of the opinion that a net ecological gain will be achieved for both the functions of Redside Dace contributing habitat, as well as general wetland habitat, throughout the entire Block 34 East participating lands.

The proposed wetland creation and mitigation of Redside Dace contributing habitat is expected to achieve a net ecological gain through the following objectives:

- Establish an increase in wetland vegetation community types;
- Create online pools that provide appropriate amphibian breeding habitat;
- Provide additional wildlife enhancement features such as turtle basking logs, a bat roosting condominium, and wildlife habitat brush piles;
- Establish native shrubs and trees surrounding the watercourse to provide shading for thermal cooling of Redside Dace contributing habitat;
- Improve water quality of Redside Dace contributing habitat through the design of the created wetlands that will polish water;
- Replicate coarse sediment supply functions of Redside Dace contributing habitat through the design inclusion of alluvium deposits;
- Improve the wildlife linkage function between the C1 watercourse and the larger valley located approximately 70 m north of the Subject Lands (CRA Only); and
- Manage invasive plant species.

We trust this information is sufficient and satisfactory.

SAVANTA INC.
A GEI Company



Rick Hubbard
Project Director
647-280-5200
rhubbard@savanta.ca

BLOCK PLAN

Block 34 East

FOR DISCUSSION
PURPOSES ONLY

