

## COMMITTEE OF THE WHOLE (2) – DECEMBER 8, 2020

### STAFF COMMUNICATIONS

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#### Distributed November 27, 2020

SC1 Memorandum from the Deputy City Manager, Corporate Services, City Treasurer and CFO dated November 23, 2020.

#### Distributed December 4, 2020

SC2 Memorandum from the City Clerk dated December 8, 2020.

SC3 Memorandum from the Deputy City Manager, Administrative Services & City Solicitor dated December 3, 2020.

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Please note there may be further Communications.

**DATE:** November 23, 2020

**TO:** Mayor and Members of Council

**FROM:** Michael Coroneos, DCM, Corporate Services, City Treasurer and CFO

**RE: STAFF COMMUNICATION – December 8, 2020  
Black Creek Financial Strategy Update**

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**Staff Communication - SC 1  
Committee of the Whole (2)  
December 8, 2020**

## **1. Purpose**

The purpose of this Staff Communication is to provide Mayor and Council information regarding the update to the Black Creek Financial Strategy and associated Area Specific Development Charges By-Laws (ASDCs)

## **2. Analysis**

In May 2016, through an extensive consultation process with the development industry, a Black Creek Financial Strategy was approved. This strategy developed a complex funding model for the Black Creek and Edgeley Pond infrastructure works in the VMC and involved the creation of three new Area Specific Development Charges (ASDCs) as well as the identification of costs to be allocated to City-Wide Development Engineering DCs, City-Wide Parks DCs, and the Storm Water reserve.

Since implementation of the Financial Strategy the City has significantly advanced the design of the pond with construction scheduled to begin in 2021. Additionally, a Request for Proposals was released for the Black Creek Channel 30% Design works in September 2020 with construction scheduled to begin in 2025.

Section 9(1) of the Development Charges Act, 1997 (DCA) requires that a DC By-law be updated at a minimum of every 5 years. In order to meet legislation staff are required to begin an update of the financial strategy and related ASDC by-laws at this time in order to ensure a new by-law is passed no later than July 1, 2021. In order to achieve this deadline, staff have procured the services of Hemson Consulting Ltd. to assist with the financial aspects of the financial strategy and the subsequent development charge rates and DTAH has been procured to assist with the more technical aspects of the strategy such as benefitting land areas and updating the cost elements within the strategy.

### **Stakeholder Consultation**

As a part of a comprehensive communication plan, City staff intends to schedule several sessions with stakeholder groups including members of the Building Industry and Land Development Association (BILD) as well as other key landowners in the watershed area. These sessions will allow the opportunity for more detailed discussion

to occur around the technical aspects of the calculations presented within the Strategy. It is anticipated that ongoing correspondence, meetings and collaboration will continue until the finalization of the Strategy and related ASDC By-law occur. The statutory Public Meeting will also provide additional opportunity for the public at large to provide input.

## **Legislative Communication Requirements**

The Development Charges Act, 1997 has mandatory communication requirements which mandate the advertising of at least one public meeting and the Clerk is mandated to carry out such advertising at least twenty (20) days in advance of the meeting date.

## **Key Dates**

The following provides a tentative overview of the anticipated key dates and next steps that will be undertaken to achieve approval of the ASDC By-laws and Financial Strategy. The timing of these steps will be dependent on continued stakeholder engagement and any further direction received by Council.

Core Study Team Kick-off Meeting	Oct 26, 2020
Kick-off Meeting with External Stakeholders	Dec 4, 2020
Consultation with Building Industry	Dec 2020 – Mar 2021
Review Draft Rates Internally	Week of Jan 4, 2021
Update to Senior Management	Early Mar 2021
Release Study Publicly	Mid Mar 2021
Advertise and Hold Public Statutory Meeting	April 2021
Seek Council Approval of Strategy	Late May

Completion of the Black Creek works is a vital step towards flood relief and the development of the VMC as Vaughan's new downtown. The Black Creek Financial Strategy ensures equitable cost allocation; sound methodology and a financial plan are in place for the long-term development of this storm water infrastructure. One component of the Strategy is the enactment of an ASDC By-law and therefore a statutory process must be followed. Staff will report back to Council after the public consultation meetings are complete in order to summarize the feedback received on the Strategy and to release the Strategy Publicly. After the Statutory Public Meeting staff will again report back to Council to obtain approval for the ASDC By-law enactment.

For more information, contact [Brianne Clace, Project Manager, ext. 8284]

**DATE:** December 8, 2020

**TO:** Mayor and Members of Council

**FROM:** Todd Coles, City Clerk

**RE:** **STAFF COMMUNICATION –  
Committee of the Whole (2), December 8, 2020**  
Bill 218, Supporting Ontario's Recovery and Municipal Elections Act, 2020

**Staff Communication - SC 2  
Committee of the Whole (2)  
December 8, 2020**

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## 1. Purpose

The purpose of this Staff Communication is to provide Mayor and Members of Council information regarding Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020*. In particular, amendments to the *Municipal Elections Act, 1996* were included in the Bill.

## 2. Analysis

### **Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020***

On November 20th, 2020, Bill 218, *Supporting Ontario's Recovery and Municipal Elections Act, 2020*, receive royal assent. The Bill provides liability protection for workers, volunteers and organizations that make an honest effort to follow public health guidelines and laws relating to exposure to COVID-19. It also amended the *Municipal Elections Act, 1996*.

### **Amendments to the *Municipal Elections Act, 1996***

The changes to the *Municipal Elections Act, 1996*, and an accompanying regulation, are as follows:

- Removes the option for ranked ballots which were introduced for the last election
- Reverts nomination day back to "third Friday in August" from the "fourth Friday in July."
- Changes the timeline for passing a bylaw authorizing the use of voting and vote-counting equipment or alternative voting method from "May 1st the year before an election" to "May 1st the year of an election."
- Similarly, changes to the timeline for clerks to establish procedures and forms for voting and vote-counting equipment and alternative voting methods from "December 31 in the year before the year of the election" to "before June 1 in the year of the election."

## **Impact to Planning for the 2022 Municipal Election**

The revision to the *Municipal Elections Act, 1996* have eliminated any option Council had with respect to the introduction of ranked ballots. Council had previously decided not to implement ranked ballots, therefore this change has no impact on the planning of the 2022 municipal election.

The change to nomination day, to the third Friday in August of election year, has the effect of reducing the time between nomination day and voting day. This reduces the amount of time for the election team to finalize ballots, printing and delivery of ballots and programming of tabulators and other general materials, ahead of voting day in October 2022. This poses logistical challenges, but the election team will have time to prepare for this, as this does represent an improvement over the nomination day date, prior to the 2018 municipal election, which was in September of the election year.

The date to pass a by-law related to voting equipment and alternative voting methods is now May 1<sup>st</sup>, 2022, a full year later than prior to the amendment. Staff have planned to have any by-law required presented to Council before the end of 2021, well in advance of the deadline.

The deadline for the related policies and procedures had been December 31<sup>st</sup>, 2021, and it has now been revised to June 1<sup>st</sup>, 2022. The election workplan still has a planned deadline of the end of 2021, depending on the adoption of any new voting technology, as they need to be in place to allow for the further planning of the election.

### **3. Conclusion**

Overall, the revisions to the *Municipal Elections Act, 1996* have little impact to the planning of the City of Vaughan 2022 Municipal Election.

For more information, contact Todd Coles, City Clerk/Returning Officer, ext. 8281

Respectfully submitted,



Todd Coles,  
City Clerk/Returning Officer



**STAFF COMMUNICATION  
FOR INFORMATION ONLY**

**DATE:** December 3, 2020  
**TO:** Mayor and Members of Council  
**FROM:** Wendy Law, Deputy City Manager, Administrative Services and City Solicitor  
**RE:** **STAFF COMMUNICATION – December 8, 2020/ COW (2)**  
**Bill 229, the *Protect, Support and Recover from COVID-19 Act***  
**(*Budget Measures*), 2020 – Schedule 6, amendments to the**  
***Conservation Authorities Act***

## 1. Purpose

To provide information regarding the proposed changes to the *Conservation Authorities Act* (“CAA”) proposed by Bill 229, the *Protect, Support and Recover from COVID-19 Act* (*Budget Measures*), 2020 (“Bill 229”), Schedule 6.

## 2. Analysis

On November 5, 2020 the Province of Ontario brought forward Bill 229 for first reading in the Ontario Legislature. Bill 229 passed its second reading on November 23, 2020 and is now before the Standing Committee for consultation and debate.

Schedule 6 to Bill 229 proposes changes to the *Conservation Authorities Act* (“CAA”) and the *Planning Act*.

Bill 229, if enacted as is, will change how conservation authorities are involved in the land use planning process and institute new appeals processes regarding permits and fees.

The more consequential impacts of the proposed changes are set out below:

- an applicant may appeal a conservation authority’s decision to refuse a permit or the conditions attached to a permit approval. The applicant can either appeal to the Local Planning Appeal Tribunal (“LPAT”) or request a review of the decision by the Minister as defined within the CAA<sup>1</sup> (the “Minister”)
- a conservation authority is no longer a “public body” under the *Planning Act* which would:

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<sup>1</sup> Currently the Minister as defined in the CAA is the Minister of Natural Resources. However *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 - Bill 108 modified the CAA to provide that the “Minister” means the “Minister of the Environment, Conservation and Parks or such other member of the Executive Council as may be assigned the administration of this Act under the Executive Council Act”. That modification has not been proclaimed to be in effect.

- prevent a conservation authority from being able to appeal a decision of a planning application made by municipal council to the LPAT;
  - prevent a conservation authority from seeking and obtaining Party Status at a hearing.
- municipal appointees to a conservation authority board must be a Councilor of a municipality
- disputes regarding the payment of permit application fees may be appealed to the LPAT
- new appeal rights in instances where a permit was cancelled
- the Minister may issue orders directing a conservation authority to refrain from issuing a permit and the power to subsequently issue an order if certain criteria are satisfied.

On November 30, 2020 the Association of Municipalities of Ontario (“AMO”) wrote to the Standing Committee on Finance and Economic Affairs raising a number of concerns regarding the proposed changes. Owing to these concerns, AMO has requested that either:

1. Schedule 6 to Bill 229 be withdrawn and AMO’s concerns be addressed separately from Bill 229; or
2. In the alternative that proclamation of Schedule 6 be delayed by the Province in order to address and resolve AMO’s concerns.

The concerns that AMO highlighted regarding the proposed changes within Schedule 6 are as follows:

1. The proposed changes were not consulted on and do not reflect what most municipalities were looking for;
2. The proposed changes have the potential to breakdown the governance and operations of conservation authorities;
3. The proposed changes to how board members are to govern themselves creates a conflict between the duty of board members to put the interest of the conservation authority first and the new requirement for board members to act on behalf of their municipal councils;
4. The proposed change for board members to act on behalf of their municipal councils raises the question of whether municipal representatives are required to get approval on agenda items when voting from their local council;

5. Concern on the limitation of the term of a chair/vice chair to “up to two-years”. AMO, while agreeable that one person or municipality should not dominate their position, recommends that there be a restriction on the number of multi-year terms so that the best candidate for chair can be secured.
6. The proposed changes which require council members only to be appointed to Conservation Authority Boards is difficult for municipalities with small Councils or Councils that have large number of committee obligations. Having the option to appoint a non-council member would be beneficial in these cases;
7. The proposed power of the Minister to over-ride local memorandum of understanding between municipalities and conservation authorities for local desired services overreaches into local matters;
8. The proposal to add a non-municipal representative to conservation board to address agricultural matters is unclear.
9. The proposed change to permit appeals and adjustment of fees is of concern to municipalities. If conservation authorities are not able to collect sufficient fees, because of the third-party appeals, municipal contributions may have to increase.
10. The removal of conservation authorities as a public body under the *Planning Act* impacts the ability of municipalities to rely on conservation authorities to provide advice on how development applications are impacted by the Provincial Policy Statement and the ability to utilize conservation authority staff as experts as expert witnesses in appeals at the LPAT.
11. Removal of the “stop work order” provision in the CAA, which was not yet in force, is concerning as it removes a tool of enforcement to allow quick action against illegal activity.

For a more thorough explanation regarding the proposed changes, please see Attachment 1 which sets out the most relevant proposed amendments from a municipal perspective in a more detailed manner.

For more information, contact Caterina Facciolo, Deputy City Solicitor, Planning and Real Estate, ext. 8662

Prepared by Gurnick Perhar, Legal Counsel, ext. 8385



## **Attachment 1**

### **1. Planning Act Appeals:**

Bill 229 proposes to exclude conservation authorities as a public body under the *Planning Act*. The effect of this change would remove the ability of a conservation authority to independently appeal a decision of a development application to the LPAT. Further, the proposed changes would also not allow a conservation authority to become a party to an appeal before the LPAT.

### **2. Right of Appeal – Conservation Authority Permit Decision**

Under the CAA, a person who wishes to conduct development activities that may impact watercourses or wetlands are required to obtain a permit from the applicable conservation authority. Under the current framework, if an applicant disagrees with the refusal of a requested permit or the conditions attached to an approval they may appeal to the Minister of Natural Resources, who has delegated this authority to the Mining and Lands Tribunal.

Bill 229 proposes to amend the *Conservation Authorities Act* to allow an applicant to request a review by the Minister or appeal the permitting decision to the LPAT.

#### **Minister – Request for Review Process:**

1. Submit a request for review within 15 days of a permit refusal or decision imposing conditions on a permit to the Minister.
2. Within 30 days of receipt the Minister shall reply to the request in writing to the applicant and conservation authority. If a response is not made in 30 days, it is deemed to be an indication that the Minister does not intend to review the decision.
3. If the Minister replies and intends to conduct a review the Minister shall publish a notice of intention to review on the Environmental Registry within 30 days of giving a reply.
4. If the Minister refuses to conduct a review or fails to make a decision within 90 days of giving a reply, the applicant can appeal to the LPAT.
5. When conducting a review and making a decision, the Minister may refuse to issue the permit or issue the permit, with or without conditions.
6. The Minister's decision is final.

#### **Permit Appeals Process:**

Alternatively, an applicant may appeal a non-decision or decision regarding a permit application in the following instances:

##### Appeal of a Decision:

The applicant can appeal a decision by a conservation authority, in which a permit is refused or approved with conditions, within 90 days of receiving reasons for the decision.

However, a person who has submitted a Request for Review to the Minister cannot appeal to the LPAT unless the Minister has refused to conduct a review, or the Minister has not replied to the request within 30 days of submission.

#### Appeal of a Non-Decision by the Conservation Authority

The applicant can appeal a non-decision directly to the LPAT if a permit application has been made and no decision has been given within 120 days.

#### Appeal of a Non-Decision by the Minister

If the Minister has given a reply to a request for review and the Minister does not make a decision within 90 days, the applicant may appeal the non-decision to the LPAT within the next 30 days.

For all appeals the LPAT has the power to refuse the permit or to order that the permit be issued, with or without conditions.

### **3. Minister Orders – Permits**

#### Order to Not Issue a Permit

Bill 229 proposes to add provisions to the CAA that would empower the Minister to order a conservation authority to not issue a permit or class of permits for an activity that would otherwise be prohibited.

The Minister may subsequently issue a permit themselves if in the Minister's opinion statutory criteria under section 28.1(1) of the CAA are satisfied.

The Minister when making an order must give notice after an order is made and post it on the Environmental Registry within 30 days.

### **4. Appeal Rights – Cancellation of a Permit**

Bill 229 also provides new procedural rights for an applicant to appeal a conservation authority's decision to cancel a permit. A permit holder, within 90 days of receiving notice of the decision to cancel the permit, may appeal the decision to the LPAT.

At a hearing the LPAT may make a decision to confirm the decision, rescind the decision or vary the decision to cancel the permit, with or without conditions.

## **5. Conservation Authority Board– Membership Structure**

Bill 229, if passed, will mandate that members appointed to a conservation authority board be selected by each municipal council from among its own members.

Further, if the participating municipalities of an authority enter into an agreement that stipulates the total number of municipally appointed members and the total members each municipality can appoint the conservation authority must, within 60 days after the agreement is signed, provide a copy to the Minister and make the agreement available to the public by posting it on their website.

In addition, the proposed changes grant the Minister the power to appoint an additional member to the conservation authority board as a representative of the agricultural sector.

## **6. Conservation Authorities Board - Duties of Members**

Bill 229, proposes to replace the requirement that members “shall act honestly and in good faith with a view to furthering the objects of the authority” with the requirement that members “shall act honestly and in good faith and, in the case of the members appointed by participating municipalities, shall generally act on behalf of their respective municipalities”.

The requirement for members appointed by municipalities, such as councillors, to generally act on behalf of their municipality raises the issue as to whether a Council resolution is required in order for a councillor to get direction before making a decision on an item considered by the conservation board.

## **7. Conservation Authorities Board – Term of a Vice-Chair or Chair**

Bill 229 proposes to introduce a new provision within the CAA which would limit the term of a chair or vice-chair to one year and to no more than two consecutive terms (new CAA provision 17(1.1)).

## **8. Transparency**

Bill 229 proposes to introduce new provisions within the CAA that will require that, subject to the *Municipal Freedom of Information and Protection of Privacy Act*, conservation authorities make its agendas for a meeting available to the public before the meeting and make the minutes of meetings publicly available within 30 days after the meeting on the conservation authority’s website.

## **9. Appeal of Permit Application Fees:**

Bill 229 proposes to create a new right of appeal with respect to permit application fees.

If a request is made to a conservation authority to reconsider its fee charged for a permit application the conservation authority would be required to make a decision within 30 days. If the conservation authority fails to make a decision within 30 days, the person who made the request for reconsideration has the right to appeal the matter to the LPAT.

In instances where the conservation authority makes a decision within 30 days and the person making the request disagrees, they may pay under protest and appeal to the LPAT within 30 days of payment.

The LPAT is empowered under the CAA to hear an appeal regarding fees and after hearing the appeal may dismiss the appeal, vary the amount of the fee or order that no fee be charged.

#### **10. Stop Orders**

The proposed changes would remove the (not yet proclaimed) powers for officers appointed by conservation authorities to issue stop orders.