

## **CITY OF VAUGHAN**

### **EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 28, 2022**

Item 46, Report No. 30, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 28, 2022.

#### **46. OFFICE OF THE INTEGRITY COMMISSIONER AND LOBBYIST REGISTRAR ANNUAL REPORT, JANUARY – DECEMBER 2021**

The Committee of the Whole recommends:

- 1) That the recommendation contained in the report of the Integrity Commissioner and Lobbyist Registrar, dated June 21, 2022, be approved; and
- 2) That a review be conducted in the next term of Council regarding the three areas identified by the Integrity Commissioner and Lobbyist Registrar:
  1. Rules and guidance for the submission of Member's Resolutions by Members of Council;
  2. Lobbyist Registrar registration requirements; and
  3. Clarification on Council members being involved in planning matters.

#### **Recommendations**

1. That this report be received for information.

## Committee of the Whole (2) Report

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**DATE:** Tuesday, June 21, 2022

**WARD(S):** ALL

**TITLE: OFFICE OF THE INTEGRITY COMMISSIONER AND LOBBYIST REGISTRAR ANNUAL REPORT, JANUARY – DECEMBER 2021**

**FROM:**

Suzanne Craig, Integrity Commissioner and Lobbyist Registrar

**ACTION:** FOR INFORMATION

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**Purpose**

Under Part B of the Complaint Protocol for the Vaughan Council Code Ethical of Conduct (the “Code”), the Integrity Commissioner shall submit periodic reports to Council setting out the activities of the Office, all complaints received and on their disposition.

**Report Highlights**

- The Integrity Commissioner and Lobbyist Registrar is a statutory office with direct reporting to Council.
- The Office of the Integrity Commissioner and Lobbyist Registrar applies the Code standards to the actions and behavior of Members of Council and monitors the communications of lobbyists with public office holders.
- The Code and the Mandatory Lobbyist Registry provide the basis for good governance with the municipal government of the City of Vaughan. The clear and consistent application of the rules and the reporting by the Integrity Commissioner and Lobbyist Registrar provide the public with a snapshot of the compliance by Members of Council with adherence to the ethical rules during their term of office.

## **Recommendation**

1. That this report be received for information.

## **Background**

This report covers the reporting period January to December 2021. The Annual Report sets out the Office's activities and decisions over the 2021 year.

## **Previous Reports/Authority**

[Office of the Integrity Commissioner and Lobbyist Registrar Annual Report January 2019 - June 2020](#)  
[Annual Report January 2019 - June 2020](#)

## **Analysis and Options**

In respect of the activities of the Office of the Lobbyist Registrar, in this reporting year there were no investigations conducted but several individuals contacted the Office to discuss whether they were required to register their communications that took place with elected officials and other Public Office Holders. These queries reflected the fact that the City of Vaughan continues to work towards a continuous improvement and accountability through the understanding of what the mandatory lobbyist regime entails. This Office has identified that there is a need for further education on the rules of the Mandatory Lobbyist Registry regime to inform individuals and businesses of the mandatory registry rules and review best practices in other municipal and provincial jurisdictions that may be adopted in the City of Vaughan.

## **Financial Impact**

N/A

## **Broader Regional Impacts/Considerations**

N/A

## **Conclusion**

The Office of the Integrity Commissioner and Lobbyist Registrar's operational strategy over this reporting year has been to prioritize the detection and deterrence efforts against activity that would significantly undermine the public trust in municipal government ethical decision-making. Working with members of the public and Members' staff, a significant amount of work of this Office in this reporting year has been dedicated to responding to Members' formal and informal requests for advice and identifying possible Code breaches

prior to them occurring. With this strategic focus on facilitating compliance, the Office has continued its strong mandate of proactive consultation with Members, their staff and the public, with a view to encouraging interaction, dialogue and understanding of the day to day application of the rules of the Code and Lobbying By-law.

**For more information**, please contact: Suzanne Craig, Integrity Commissioner and Lobbyist Registrar, [suzanne.craig@vaughan.ca](mailto:suzanne.craig@vaughan.ca)

### **Attachments**

1. Integrity Commissioner and Lobbyist Registrar Annual Report, January – December 2021

### **Prepared by**

Suzanne Craig, Integrity Commissioner and Lobbyist Registrar ext: 8301

### **Approved by**



Suzanne Craig  
Integrity Commissioner and Lobbyist Registrar

OFFICE OF THE  
INTEGRITY COMMISSIONER'S

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# ANNUAL REPORT

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2020 - 2021



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# MESSAGE FROM THE INTEGRITY COMMISSIONER



Suzanne Craig, Integrity Commissioner and Lobbyist Registrar

This report covers the 2021 reporting year<sup>1</sup> and sets out the City of Vaughan's Office of the Integrity Commissioner and Lobbyist Registrar activities and decisions over the reporting year. I am pleased to provide this Annual Report to highlight actions and key accomplishments in 2021.

2021 saw a loosening of the pandemic restrictions and a move away from some of the challenges and difficulties faced in the previous year. During this reporting period, as in previous years, a significant amount of work of this Office has been dedicated to responding to Members' formal and informal requests for advice. With the 2021 strategic focus of this Office on facilitating compliance with the rules of the Code of Ethical Conduct for Council and Local Board Members (the "Code"), this Office sought to review key areas of City policy that intersect with Code rules. Matters relating to planning applications, the procedural By-Law relating to meeting management, Member's Resolutions and Undue Influence were the areas most frequently intersecting with Code complaints.

In January 2021, my Office hosted the Inaugural Meeting of the Lobbyist Registrars of Ontario ("MLRO"). The existence of Lobbyist Registry regimes is still a new one in Ontario at the municipal level. The January 2021 meeting afforded the group of ethics officers the opportunity to discuss best practices in particular with respect to municipal election rules.

In February 2021, I scheduled meetings with Members to discuss areas and topics for which Members and the public have suggested a need for clarity on how best Members should balance their representative and political role with their obligations under the Code.

During this reporting period, this Office conducted meetings virtually on various IT platforms. Notwithstanding the fact that the City and this Office continued to work remotely, the restrictive circumstances created by the pandemic did not prevent receipt of inquiries, and the hybrid arrangement of meetings worked satisfactorily to provide full complement of services.

This Office investigated important complaints under the Code and the Municipal Conflict of Interest Act ("MCIA"). Again, this year, I am pleased to report that the investigations conducted in the reporting period have had positive outcomes. However, while there have been no reports brought to Council sustaining the allegations of complaints of contravention by a Member of Council, the complaints have raised issues of concern and are outlined below.

In the Mandatory Lobbyist Registry mandate, there was no appreciable change in the workload due to the pandemic. The small increase in the number of registrations in 2021, may have resulted in part from the change in business interaction due to the pandemic. The pandemic also meant that most meetings with Public Office Holders ("POH") were conducted remotely. The change in number of registrations may also have been due to the continuing requests for advice and opinions by lobbyists to the Office, which increased slightly this year and may have led to a better understanding by business of when registration is required. Unlike the City of Toronto,

<sup>1</sup> Last Annual Report was tabled in September 2020. This Annual Report covers activities up to December 2021.





the Province of Ontario or the Federal government, the City of Vaughan did not have a significant number of registrations regarding “COVID-19/ Pandemic response” as a selected subject matter of lobbying activity.

In this reporting year, there were 3 Formal Complaints which were dismissed, and 1 Formal Complaint filed in 2020 with the investigation report brought to Council in the 2021 reporting year. This Code complaint report found no contravention of the Member investigated. There were 6 Informal Complaints, four of which were dismissed with insufficient grounds and 2, based on the matters raised, not being Code related.

My thanks go to City staff who have cooperated with this Office and Ms. Cathy Passafiume, who has provided this Office with professional support as Executive Assistant to the Integrity Commissioner and Lobbyist Registrar.

## SIGNIFICANT ISSUES

### FORMAL CODE OF CONDUCT COMPLAINT INVESTIGATION REPORT 062520

This Report was tabled at the March 8, 2021, Committee of the Whole.

This report presented the findings of the investigation of this Office under the City of Vaughan Code of Ethical Conduct (the “Code”) relating to the conduct of a Member of Council in connection to a complaint raising two issues:

**1**

whether the Respondent, as the local councillor, interfered with the development process by requiring meetings before a report on the development application could come forward to Council in contravention of Rules 7 and 16 of the Code and

**2**

whether the Respondent applied “considerable political interference”, to “push” City of Vaughan and Toronto Region Conservation Association (“TRCA”) staff to delay or modify the Complainant’s application, including by using “residents’ studies and reviews of reports prepared by ratepayers’ consultants”, in contravention of Rules 7 and 16 of the Code.

The Code states that 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.



The investigation found that the Respondent followed the rules of the Council Staff Protocol in requesting updates from staff in particular regarding concerns of residents about [the proposed development] location and clarification on determining density based on the Minister's Zoning Order (MZO).

This Complaint report demonstrated the frustration experienced by some members of the public in trying to understand the application of the Code rules and the role of the Integrity Commissioner in respect of planning matters.

This Office concluded the above-noted investigation report by saying that while the allegations of improper use of influence were not borne out, the Respondent was encouraged to direct members of the public to the steps that can be taken to bring new issues to the attention of City staff in a City process rather than filling this role herself.

## THE ROLE OF THE INTEGRITY COMMISSIONER

The above noted complaint investigation report, along with other questions raised with this Office in the reporting year, demonstrated the need for a further clarification of the role of the Integrity Commissioner. Of assistance in clarifying this role, is a review of the relevant sections set out by Justice Bellamy in the 2005 Bellamy Report:

**An integrity commissioner provides significant profile to ethical issues inside City government and sends an important message to constituents about the City's commitment to ethical governance.**

**No matter how comprehensive the rules, there will on occasion be situations where the ethical course of action is not clear and an individual will need authoritative advice and guidance.**

**Without enforcement, the rules are only guidelines. Although research shows that a values-based approach to ethics policy, focusing on defining values and encouraging employee commitment, is preferable to a system of surveillance and punishment, where the public interest is involved, there should be a deterrent in the form of consequences for bad behaviour. The rules must have teeth.**

Justice Bellamy went on to state that an Integrity Commissioner should have certain attributes, which include:

- excellent and effective communication skills in functions including presentations, public speaking, and one-on-one interactions with employees of all levels
- objectivity and thoughtfulness
- ability to establish and maintain credibility and trust throughout the organization

- ability to quickly assimilate information relating to complex issues
- ability to network on all levels of an organization
- political astuteness
- personal and professional maturity
- working knowledge of applicable laws and regulations
- discretion and ability to protect confidential information
- ability and willingness to take a difficult or unpopular position if necessary

Neither Justice Bellamy nor Justice Cunningham, Commissioner of the Mississauga Inquiry, recommended that an Integrity Commissioner should be an expert in planning, human resources, civil litigation or financial matters. Rather, both Inquiry Commissioners advised that an Integrity Commissioner should be an ethics professional with the skills and attributes to conduct a fair and objective investigation in accordance with the by-laws of the municipality.

The Integrity Commissioner is not "the arbiter of whether a Member of Council participates in the planning process". The Integrity Commissioner investigates and, if a complaint about participation in the planning process is found to be a violation of the Code, the Commissioner reports on her findings and makes recommendations to Council possible penalties or corrective action. However, the complaints and queries received by this Office have underscored some very important questions around governance processes, some of which have also been raised and discussed by the Effective Governance and Oversight Task Force.

## THE CITY OF VAUGHAN PLANNING PROCESS

The City of Vaughan public website states that:

Before shovels hit the ground or any concrete is poured for new buildings, the City of Vaughan undertakes a detailed review which includes a public step-by-step process in advance of any projects being approved. This allows members of the community to share their concerns or comments about proposed developments.

Included on the City's website is the Step-By-Step Planning Process Guide (the "Guide"). Of note, the Guide includes a section entitled "Individual Members of Council" and sets out that Members of Council:

- May meet informally with applicant prior to submission to be informed of proposal
- May ask that the applicant hold a community consultation or information meeting prior to or after submission of the application
- May meet with Planning and Growth Management staff after the formal submission

In addition, the Guide includes the following statement:

### A Note on Timing:

It is next to impossible to define with any accuracy the timing involved in this process. The timing is based on many different factors such as the interest of the applicant, the workflow of Planning and Growth Management staff and the number of issues that arise in the staff review.

This Office is aware of the fact that a significant portion of the delays with respect to application approvals are caused by further information being required by the City and other agencies.

Often during this reporting period, members of the public alleged that there was undue influence by Members of Council in relation to the planning application process. The City of Vaughan's Planning and Growth Management Department ("PGMD") has published a Pre-Application Consultation: Complete Application Guide. Pre-Application Consultation (PAC) meetings are only required for prescribed activities<sup>2</sup>. The PAC is an information tool and a planning application is not always subsequently submitted.

2 • Official Plan Amendment • Zoning By-law Amendment • Draft Plan of Subdivision • Site Development, subject to the City's Site Plan Control By-law 123-2013 • Draft Plan of Condominium (Vacant Land/Common Element Only)



Participating in and the discussion at a PAC meeting is governed by the policies of the PGMD. This Office received numerous queries in which the individual raised concerns about undue influence by Members of Council in the planning process. Undue Influence under the Code is imposing pressure that causes a person to perform some legal act that does not reflect the true role of the person or staffer. As stated by a Commissioner in a 2018 municipal code investigation report:

**[...] it does not matter whether the Respondents' positions were favourable to the Association. As the Supreme Court of Canada has observed, positions taken by elected officials might advance some people's interests while being adverse to other people's interests. Consequently, the fact that a position happens to be in the interest of some and not of others does not make the position "special consideration, treatment or advantage ... to any citizen beyond that which is available to any other citizen."**<sup>3</sup>

It is important to understand that if a Member of Council conducts him or herself to the advantage of a private interest of a party, Rule 7 (Undue Influence) of the Code is triggered. Such conduct would include attempts to secure preferential treatment beyond activities in which members normally engage, on behalf of their constituents, as part of their official duties. Members of Council are permitted to ask questions, seek clarification, and engage critically with the reports which inform the decisions they must make. Asking questions such as whether the consolidated comments of residents have been received by staff, why a meeting may have been postponed, and asking supplementary questions, some of which may have been forwarded to a Councillor's office by concerned residents, are generally permitted under the Code.



## COUNCILLOR BIAS

It is a basic premise of decision-making at the municipal level that Council decisions must be fair and appear to be fair to the informed and reasonable observer. If actual or apprehended bias arises from a Councillor's words or actions, then the elected official has exceeded their jurisdiction and should disqualify themselves. This Office has stated previously that Members are required to be free from bias and prejudgment in respect of the decisions that are part of a Member's political and legislative duties. Generally, the test adopted by municipal integrity commissioners for determining whether there is a reasonable apprehension of bias in respect of a Member, is the same as the test established by courts with respect to an administrative tribunal:

**... [W]hat would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly. (Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General), [2015] 2 SCR 282 at para. 20)**

Any allegation that this Office has received through a complaint that an individual Member of Council has directed staff contrary to the Code rules, is one taken very seriously. This Office has received and investigated complaints over the years against Members of Council alleging such action. This Office has always explained that Members of Council are required under the Code to recognize and respect the role of City staff and understand that only Council as a whole has the capacity to direct staff members. There has been no finding that a Member of Council has inappropriately influenced the actions of staff.

<sup>3</sup> Bush v Trist and Valley, 2018 ONMIC 19 (CanLII), paragraph 45.

## COUNCIL MEMBER DECORUM AT PUBLIC MEETINGS

During the reporting year, this Office received communications from members of the public expressing dissatisfaction with how they were treated at Council.

Citing the Integrity Commissioner's reluctance to find against a council member with respect to conduct at council, some members of the public have asked whether the Code rules apply to the conduct of Members of Council during a Committee or Council meeting.

Section 4 of the Code of Conduct Complaint Protocol (the "Protocol") states that 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, may pursue the matter through the Informal or Formal Complaint Process. The Protocol further states that 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.

Rule 8 of the Code addresses conduct at council meetings. Rule 1 sets out that Members shall serve and be seen to serve their constituents in a conscientious and diligent manner.

The Chair of a public meeting is expected to raise points of order when meeting participants, including fellow members of council, fail to show respect to other meeting participants, including members of the public who are making depositions. If the comments of a Member, in response to a deponent's comments, do not rise to a level that, on its face, trigger the engagement of the Code, generally speaking the matter will not be pursued through the Code process. In a 1994 defamation decision<sup>4</sup> Orsborn, J. commented at p. 149:

**An untrue defamatory statement may nonetheless not be actionable if the defence of fair comment is applicable. A useful summary of the elements of this defence is set out in R.E. Brown, *The Law of Defamation in Canada*, vol. 1 (Toronto: Carswell, 1987), at pp. 669-670:**

**Everyone is entitled to comment fairly on matters of public interest. Such comments are protected by a qualified privilege if they are found to be comments and not statements of fact, and are made honestly, and in good faith, about facts which are true on a matter of public interest. A comment is the subjective expression of opinion in the form**

**of a deduction, inference, conclusion, criticism, judgment, remark or observation which is generally incapable of proof. In order to be fair, it must be shown that the facts upon which the comment is based are truly stated, and that the comment is an honest expression of opinion relating to those facts. Where a comment imputes evil, base or corrupt motives to a person, it must be shown that such imputations are warranted by, and could reasonably be drawn from these facts. The comment must be made on a matter of public interest. The matter may be of interest because of the importance of the person about whom the comment is made, or because of the event, occasion or circumstances that give rise to the opinion. The protection may be lost if it is shown that the comment was made maliciously, in the sense that it originated from some improper or indirect motive, or if there was no reasonable relationship between the comment that was made and the public interest that it was designed to serve.**

In a recent court decision, the Ontario Court of Appeal<sup>5</sup> considered whether municipal councillors are also protected by absolute privilege at municipal council meetings or by qualified privilege. This decision provides helpful advice to municipal integrity commissioners when considering acceptable commentary by Members at Council. The Court confirmed that municipal councillors do not enjoy absolute privilege for offensive statements they make during municipal council meetings, however, their conduct is governed by the rules of council codes of conduct, including rules of decorum, as interpreted by the Integrity Commissioner.

The Integrity Commissioner for the City of Vaughan is the administrative decision-maker vested with the power to commence an investigation or to dismiss a complaint where the complaint is frivolous, vexatious, or not made in good faith or where she deems there to be insufficient grounds to begin or continue an investigation relating to a complaint with a view to an informal resolution of the matter.

During this reporting period, I followed Committee and Council meetings with a view to ensuring that the Code decorum rules were being followed. While this Office has noted several instances of spirited debate on matters of significant importance to the City, Council and the public, there has not been a finding of any Code violation with respect to Member conduct during Committee and Council meetings. On occasion, where concerns have been brought forward, this Office has reviewed the matter of concern and where deemed necessary, discussed this issue with the Member or Members, reminding them of their Code obligations.

<sup>4</sup> Peckham v. Mount Pearl (City) (1994), 122 Nfld. & P.E.I.R. 142 (Nfld. T.D.)

<sup>5</sup> Gutowski v. Clayton, 2014 ONSC 2908, 2014 ONCA 921



## MEMBER'S RESOLUTION AND CITY PLANNING MATTERS

Members of the public have raised concerns about whether there are approved criteria for which a Member's Resolution can be brought forward. More specifically this Office was asked if a Member's Resolution would, on its face, engage the Undue Influence rule of the Code or the conflict prohibitions under the MCIA. Public questions were brought forward suggesting that the processes followed were inconsistent and there appeared to be an absence of a clear understanding of the rules that guide the submission of Member's Resolutions by Members of Council.

This Office spoke with staff of the City, of the Region, subject-matter experts at the provincial level and Members of Council to review the matter and concluded that simply pointing out the benefits to a municipality of a particular planning perspective, e.g., development that will bring forward affordable housing - does not trigger the application of the Code rules. A conflict situation may arise where a Member of Council uses their position on Council to bring forward a Member's Resolution that takes a position on a City matter that is also advantageous to the Councillor's private pecuniary interest. However, absent a private interest that links the bringing forward of a Member's Resolution to a promise to afford an unfair advantage to an individual, business or a Member or an unlawful benefit, bringing forward a particular land use position is allowable under the Code. The process of how to bring a matter forward is appropriately situated in a City policy discussion and is not reviewable under the Code.

To constitute a pecuniary interest under the MCIA, there must be something more than the possibility of future business or benefit<sup>6</sup>. A Member who brings forward a position in fulfilment of their role of Council (to bring forward through Provincial mechanisms, opportunities both in tune with the social housing concerns in City of Vaughan, as well as making decisions that reflect the intent of the Official Plan) is conducting an activity within the role of a Member. Relevant City staff have informed this Office that the Vaughan Official Plan is a broad statement of planning policies and objectives and not a strict inflexible marker. This Office takes no position on the veracity of this position and has always deferred to subject matter expert staff with respect to planning, procurement, human resources, economic development and other departmental subject matters. Without a link that creates a

private interest, generally, any position being advanced by a Member through Resolution is a representational interest which speaks to the Member's role. In a 2019 decision, the court held that a political interest is not captured by the provisions of the MCIA and would not be a basis for finding that the respondent had an [...] pecuniary interest<sup>7</sup>. With reference to the questions that have come to this Office as general questions and otherwise, regarding whether there is undue influence or inappropriate influence of staff when a Member asks for assistance in writing a Member's Resolution, this Office has been advised that generally staff provide advice on whether a matter is allowable under the City policies and relevant legislation and often seek staff's technical expertise in assisting to craft a Resolution. A Member who brings forward a Resolution in the best interests of his or her community and where there is no evidence of a personal interest in the success of the zoning applications or that staff was compelled to craft the instruments for consideration by Council, will not trigger the application of the Code.

These queries, which were brought forward to this Office because individuals believed Members had contravened the Code, have gone beyond a discussion of simply what can be included in a Member's Resolution and have raised the issue of a Member's ability to express their position on a development proposal. The courts have confirmed that "[p]ersons for or against a development proposal should feel free to discuss it with their Municipal Councillor, and the Councillor should be free to express an initial reaction without running the risk of being disqualified from subsequent participation in the decisionmaking process."<sup>8</sup> The question that lies at the feet of the City is whether all constituents have equal access to their Council representatives. Simply being the mover of a Member's Resolution is not evidence of any wrongdoing of a Member. However, who gets access to a Member for the purpose of a matter being brought forward through a Member's Resolution is a political matter and if the public seeks clarification on this, the discussion would be through policy and not through the Code process.

When a Member's Resolution is brought directly to a Council meeting, rather than a Standing Committee (i.e., Committee of the Whole), the Procedural By-law (the

<sup>6</sup> *Lorello v. Meffe*, 2010 ONSC 1976, at para. 59; *Darnley v. Thompson*, at para. 59.

<sup>7</sup> *Cauchi v. Marai*, 2019 ONSC 497, 87 M.P.L.R. (5th) 318.

<sup>8</sup> *Old St. Boniface Residents Assn. Inc. v. Winnipeg (City)*, [1990] 3 S.C.R. 1170, 2 M.P.L.R. (2d) 217.

“By-law”) does not restrict this practice. This instrument provides a means by which to consider addendum items at a Council meeting not previously considered at a Standing Committee. While this process has a secondary result of not affording public consultation on matters of community relevance, the By-law allows this flexibility in meeting management. This is a procedural and governance issue and not a Code issue.

The By-law provides opportunities for Members of Council to bring forward Member’s Resolutions as a means to address items that may not be brought forward through a staff report. City staff have explained to this Office that a Member’s Resolution is an important tool for a Member of Council in their role as representatives of their constituents, as not every matter important to the constituents may be the subject of a staff report.

This Office has been advised that the By-law also addresses the need for addenda to an agenda, whether for Committee or Council meetings, because business of the City does not always fit neatly within the established meeting cycles and their associated submission deadlines. The ability to have addenda on a meeting agenda is an important tool for Council and staff to continue the business of the City. When I reviewed the questions raised by the public, there appeared to be an urgent need to address whether there are criteria for a Member’s Resolution coming forward. Council may not possess the necessary expertise to make an informed decision on whether a matter should be raised through a Member’s Resolution or otherwise. It appears that the existing process may facilitate placement of significant matters on the Council agenda that require staff input prior to inclusion on the agenda. Staff have clearly confirmed with this Office that there is a process at the City of Vaughan that permits any Member of Council the opportunity to bring forward a Member’s Resolution to put a matter before Council for

consideration. Members and staff view this process as part of the democratic process, with the built-in safeguard of the requirement of the confirmation of agenda items by Council, to protect against matters of significant cost and deviation from City policies coming forward for debate in this way. Further, staff advise that should there be a need for further information to be provided to Council to facilitate an informed decision, Council may direct staff to bring back an information or options report at a later date.

The matters brought to the attention of this Office raised questions and concerns around governance, in particular regarding transparency in the City planning process and public consultation requirements. In addition, in the absence of criteria for when the public can request that a Member of Council bring forward a matter of interest to them through a Member’s Resolution, there appears little that would prevent the granting of special consideration, treatment or advantage to one individual or group over another. The process may allow this instrument, however individual Council Members are encouraged to seek guidance from staff on when the use of this instrument to bring a matter before Council is the most appropriate way to balance business needs and transparency. The role of Integrity Commissioner and Lobbyist Registrar for the City is limited to the application and enforcement of the rules of the Code and Lobbying By-Law. The Integrity Commissioner does not have authority to review or make recommendations in respect of actions and decisions of Council as a Whole or staff, or gaps in City processes. While the Code is a policy of the City enacted to afford transparency in decision-making and hold individual Members accountable for wrongdoing, bringing forward a matter to Council through a Member’s Resolution is not a matter to be reviewed or addressed through the Code process, unless evidence is brought forward of councillor bias. Being a mover of a Member Resolution is not a Code violation in and of itself.

## IMPROPER USE OF INFLUENCE

Several concerns were raised with this Office with reference to expedited planning approvals and the allegation of undue use of influence by individual Members.

**A**

It has been observed by many municipal integrity commissioners that individual Members of Council hold a

representative role that affords them significant influence regarding decisions on how land will be used in each municipality. Clearly developers hold the position that interaction with elected officials will bode well for the success of a developer’s land use application. As long as an elected official interacts with constituents, which include businesses and developers, in accordance with the rules set out in the planning policies of the City, the



Planning Act and the Code, it is likely that there will not be a finding of improper influence. Only conduct that steps outside of the boundaries of general City planning policies will risk running afoul. In the Collingwood Judicial Inquiry, Justice Marrocco stated in his recommendations to the Town of Collingwood that:

**Like the head of Council, members of Council are trustees of the public interest. Council members must ensure that this trust governs all their actions and decisions. Members of Council must also respect the need for a neutral and impartial public service, which gives its best advice based on the merits of the question before it. When this respect is lacking, staff's work risks becoming politicized and staff are in danger of failing to fulfill their obligations to the public, which in turn creates the risk of loss of public confidence.**

As pointed out by the former Integrity Commissioner of the City of Toronto:

**...members of the public must not be concerned with every interaction between a member of Council and real estate developers. Local governments are the primary decision-makers responsible for land use planning. Accordingly, real estate developers frequently must seek approvals from [ City] Council to build in [the City], and the City's current policy framework prescribes a role for members of Council throughout the planning application process. Members are permitted to escalate issues within the City on behalf of developers and to take points of view that are favourable to developers: such activity is not contrary to the Code of Conduct.<sup>9</sup>**

Most planning applications carry the weight of private interest. It is the role of Council, through the deliberation of individual Members of Council, to make decisions on private interests. Often, greater transparency should be afforded during public debates because Members of Council and staff may be in possession of information for which the public is not aware. If a Member takes a position in favour of the business' application approval, this is conduct in respect of their representative role and not contrary to the rules of the Code.

## B

Within the context of a discussion of Undue Influence, this Office has received queries regarding the role of a Regional Councillor. There is no municipal rule that requires a Regional Member to carry forward the position of Vaughan Council when acting in their Regional role.



Similarly, there is no obligation in the Code of Conduct for a Regional Member to bring forward a motion that may have been approved by Vaughan Council.

When there is a staff report with recommendations where there is a requirement for Regional endorsement, the report will include a recommendation that the Council Extract be forwarded to the Region of York by the Clerk. The Regional Clerk will include that extract on a Regional Council agenda. This way the Vaughan Council position is clear and known to all of the Regional Council Members.

There is nothing in the Code that requires a Regional Member to vote on a regional matter in accordance with a Vaughan Council decision and there is no requirement for Regional Members to defer to representatives from a local municipality on any given issue even if this has been an accepted practice in the past.

In the Collingwood Judicial Inquiry Report, Justice Marrocco recommended that the Ontario Municipal Act, 2001 be amended:

**The Province of Ontario should amend the Municipal Act to define the roles and responsibilities of individual Council members. It should be made clear that only Council as a whole, not a single Council member, has the authority to direct staff to carry out a particular function, or act on any other matter, unless specifically authorized by Council.**

Neither the current nor the recommended amendments to the Municipal Act defines the role of a municipal councillor versus the role of a regional or district councillor. This legislative and governance gap facilitates uncertainty both for the Member and for the public. The desire of Members to navigate the dilemma of seeking to consolidate the public interest of the City of Vaughan and that of the Region is a political and policy matter and not reviewable under the Code.

<sup>9</sup> [Grimes (Re), 2016 ONMIC 7, 2016-07-05]

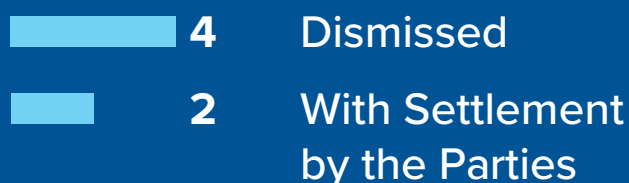
# ACTIVITIES OF THE OFFICE OF THE INTEGRITY COMMISSIONER & LOBBYIST REGISTRAR

2019-20

**6** Formal Complaints



**6** Informal Complaints



\*2 full investigations – decision to not apply to the court

\*\*10 dismissals

2021

**3** Formal Complaints

**3** Dismissals

**6** Informal Complaints

**3** Dismissals

## INQUIRIES ON CODE APPLICATION

From the Public



From City Staff



From Members of Council



Total Code Related



## INQUIRIES ON NON-CODE APPLICATION

Staff from Staff



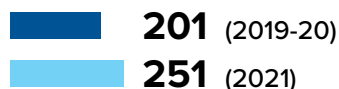
Process from Staff



Staff from Public



Process from Public



Total Non-Code Related



**Total  
Inquiries**



## TYPE OF CODE-RELATED INQUIRIES

**37** Preferential Treatment/  
Undue Influence

**36** Use of  
Social Media

**35** Role of  
Councillor

**21** Conflict of  
Interest

**18** Charitable/Community  
support by Members

**12** Gifts or  
Benefits

In the 2021 reporting year, there were 3 Formal Complaints, which were dismissed, and 1 Formal Complaint filed in 2020 with the investigation reports brought to Council in the 2021 reporting year. The one Code complaint report brought to Council found no contravention of the Member investigated. There were 6 Informal Complaints, four of which were dismissed with insufficient grounds and 2 on the basis of the matters raised not being Code related.



# MANDATORY LOBBYING REGIME

The City of Vaughan's Mandatory Lobbying Regime requires certain communications with City Public Office Holders ("POH") to be registered in the Lobbyist Registry. The Lobbyist Code of Conduct, the Lobbying By-Law and the Municipal Act, contain the standards and rules to which lobbyists must adhere. The Honourable Madam Justice Denise E. Bellamy<sup>10</sup> stated in her Toronto Judicial Inquiry Report, that "[t]he City should treat lobbying as a potentially helpful practice that should be carefully controlled". In fact, the following recommendations were included by Justice Bellamy:

**101. Lobbying should state clearly whom they are representing and why...**

**103. Lobbyists should refrain from placing or proposing to place an elected official or City staff member in a conflict of interest of any sort.**

This Office has received inquiries about who is required to lobby and when. The Lobbyist Registrar webpage on the City's website contains an interactive process with prompts that navigate individuals through questions to determine if they are a lobbyist and are required to register for the purpose of the Lobbying By-Law. Any individual or organization looking to lobby a government official may contact the Lobbyist Registrar to receive clarification on obligations under the Lobbying By-Law. If an individual believes a lobbyist has broken the Lobbyist Code of Conduct or the rules of the Lobbying By-Law by either not registering communications or discussing matters not listed in their registration, they may file a complaint with the Lobbyist Registrar.

If there is a complaint, this Office will work with individuals to assess the complaint to identify the appropriate action. If an investigation should be undertaken, the Office will update the complainant on the progress of the complaint. Currently, the premise of the Mandatory Lobbyist Registry regime at the City of Vaughan is transparency, awareness and education. This Office implements City Council's position that access to City departments is vital to local communities and business. Knowing who is lobbying which POH allows for informed and transparent decision-making. Lobbying is a legitimate activity in an effective governance model if lobbying is not restricted but is regulated and when lobbyists are bound by fair and consistently applied standards of conduct.

Whether communicating with POHs about planning and development, green spaces, affordable housing, roads, transportation, Covid response or diversity and indigenous issues, lobbying is a strong pillar of public participation in government decision-making processes. Regulated lobbying guides public confidence in how decisions are made by the City's government. The lobbyist registry makes communications and exchanges transparent so that when a matter comes before Vaughan City Council for decision, it is clear to all concerned, whose voices were heard. To be clear, while nothing in the Lobbying By-Law prohibits any group or individual from exchanging views and ideas with POHs and contributing to better policy development, registering as a lobbyist does not compel a POH to meet with the lobbyist. The transparency created by the Mandatory Lobbyist Registry allows it to be clear who has spoken to whom in government and this in turn helps to reduce the risk of any one group unduly influencing the decisions of the City. What the Mandatory Lobbyist Registry regime cannot do is force any elected official to meet with anyone or allow any group to circumvent the processes set out in approved City policies or By-Laws. Generally speaking, private interest groups and public community groups are allowed to access POHs through

<sup>10</sup> Commissioner, Report of the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry, Executive Summary, Recommendations, 2005.

communications governed by statute and approved City policies and procedures, including the City's Planning Application policies. In the circumstances where an individual or group, who represents a business of financial interest, wishes to speak with a POH with the goal of trying to influence any legislative action, including, but not exclusively, development, introduction, passage, defeat, amendment or repeal of a By-Law, motion, resolution or the outcome of a decision on any matter before Council or a Committee of Council, or staff member acting under delegated authority, they must register the communication in the Lobbyist Registry. Otherwise, communications do not have to be registered. Though there is currently no positive obligation on the part of a Member of Council or staff POH to report a lobbyist who has not registered, each POH is a City ambassador who should support efforts to refer lobbyists to the Lobbyist Registrar to learn about registration requirements.

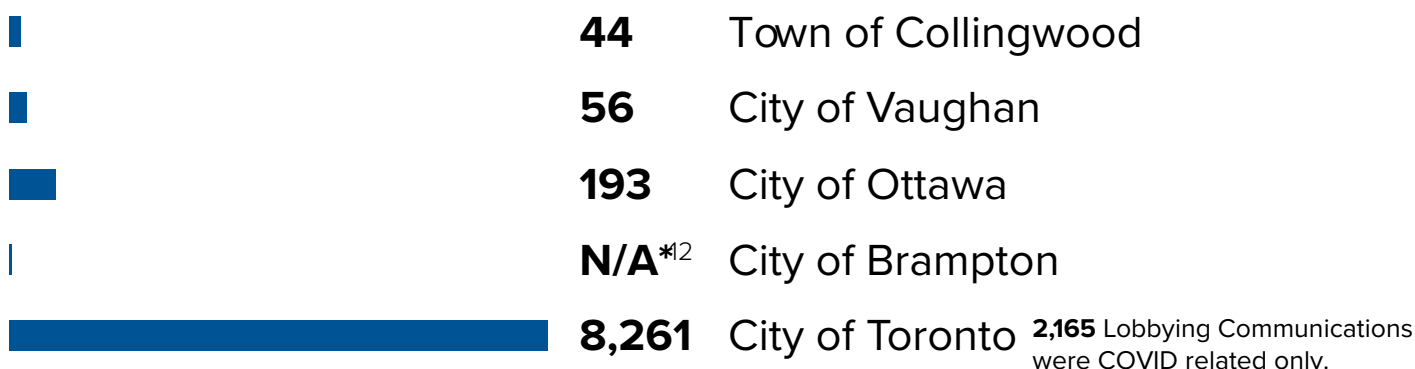
The City of Vaughan's Lobbyist Registry regime started as a voluntary registry in 2017 as part of the City's commitment to transparency and accountability. Lobbying activities were registered through an online portal on a voluntary basis for the year to educate and train stakeholders on the new process.

In January 2018, the Lobbyist Registry became mandatory. Over the course of this reporting period, this Office has identified the impacts to staff and Council members on the

understanding of the Mandatory Lobbyist Registry regime and as a result, would encourage Council to include a periodic review of the By-Law. Vaughan's regime is unique in that it is not premised on requiring registration by lobbyists who lobby for a percentage of their business activities, nor is the lobbying requirement transactional like the City of Toronto's regime. Rather, to balance transparency with public engagement in government, the City determined that lobbyist registration will capture the name of the lobbyist (and their client if applicable), the lobbyist's business activities, who is being lobbied, the subject matter of the lobbying and the timeframe within which the lobbying will take place. In response to public questions to this Office to explain the difference in number of registrations of the City of Toronto versus the City of Vaughan, unlike the City of Toronto's regime, the Vaughan regime is not transactional and does not require each interaction with the POH within the timeframe to be registered. At the City of Toronto, communication numbers reported in the annual report are different from the actual lobbyist registration numbers, as Lobbying Communications (in the Annual Report: Toronto Lobbyist Registrar<sup>11</sup>) refers to the number of times a Lobbyist communicated by either telephone, meeting, email or otherwise with a City of Toronto public office holder. Further, in response to public questions about the different numbers in various jurisdictions, the following data may be of assistance. The data is taken from 2020 records as not all 2021 information is available.



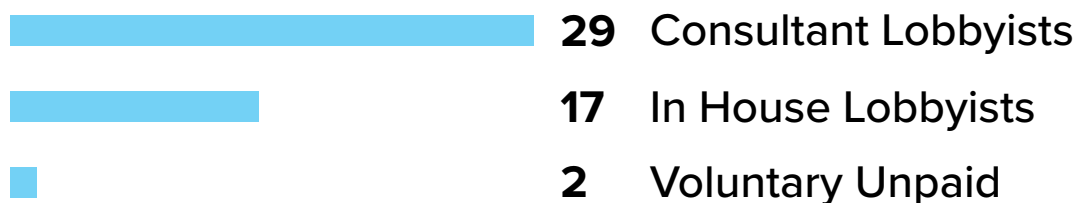
## 2020 LOBBYING ACTIVITIES



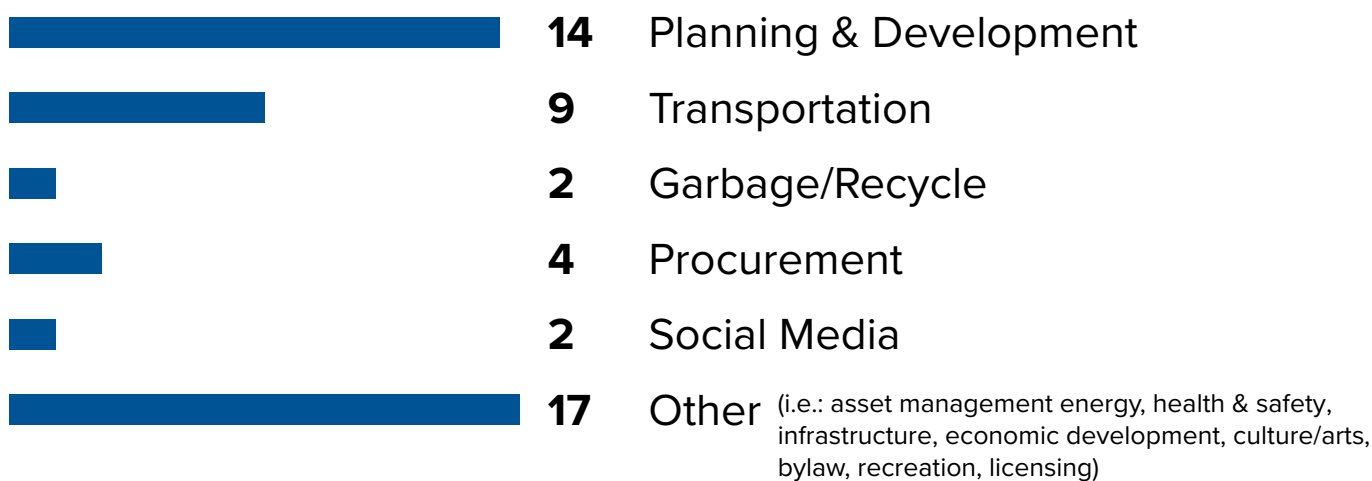
## 2021 CITY OF VAUGHAN LOBBYING ACTIVITIES

# 48

### Total Registrations



### Breakdown by subject matter



<sup>12</sup> Data not available



# EDUCATION AND OUTREACH

## INTEGRITY COMMISSIONER PRESENTATIONS

- **January 2021**, Co-hosted the virtual inaugural meeting of the Municipal Lobbyist Registrars of Ontario (MLRO) alongside Cristina De Caprio, Toronto's Lobbyist Registrar, in January. Topics included lobbying during a pandemic and the Collingwood Inquiry Report released by Justice Frank Marrocco.
- **February 2021**, Presentation to the Diversity and Inclusion Task Force.
- **February 2021**, Presented to the City of Vaughan's Effective Governance and Oversight Task Force on the Code of Ethical Conduct for Members of Council and local boards and city governance, and to the Diversity and Inclusion Task Force on the intersection between the accountability framework and equity best practices at the City of Vaughan.
- **March 2021**, Met with the City of Vaughan's Extended Senior Leadership Team to provide an update on new issues arising under the Lobbying By-Law and clarify what obligations lobbyists have under the mandatory registration system, particularly how these obligations intersect with the responsibilities of staff.
- **March 2021**, Met with and presented to Vaughan's Extended Professional Leadership Legal Team which included staff of Legal Services and the City Clerk's Office.
- **February – March 2021** One-on-one meetings were conducted with Members of Council and their staff to follow up on the Integrity Commissioner and Lobbyist Registrar 2020 Annual Report. These meetings focused on discussions about the Code of Ethical Conduct from the Council Members' perspective.
- **May 2021**, Presented at the Osgoode Hall Law School Canadian Public Law and Governance Symposium. The theme for the Symposium was Administrative Law's New Landscape with a focus on the Province of Ontario's Consultation on Municipal Codes of Conduct.
- **May 2021**, Presented at the 2021 Public Sector Ethics Conference.
- **June 2021**, Virtual Municipal Integrity Commissioners of Ontario Spring meeting. The agenda topics included strengthening municipal codes of conduct, Municipal Conflict of Interest Act case law, the Collingwood Inquiry, Dhillon vs the City of Brampton, and public inquiries in Ontario. Presented on a panel discussion on disqualifying and non-disqualifying conflicts of interest under the MCIA and Codes of Conduct.
- **June 2021**, Guest Presenter at Western University's Local Governance Program. The presentation covered recent updates to accountability and transparency in municipal government, harassment complaints under Codes of Conduct and the Provincial Consultation on changes to municipal Codes of Conduct.
- **December 2021**, Panelist - Ontario Bar Association – Professionalism in Municipal and Planning Law. The Presentation focused on Use of Social Media and Lobbying Rules in an Election Year

## PUBLIC CONSULTATION ON AMENDMENTS TO MUNICIPAL CODES OF CONDUCT

The Association of Municipalities of Ontario (AMO) was asked during its December 2020 consultation meeting with the Minister of Municipal Affairs and Housing to provide input on a potential council member recall mechanism, and in response the Association provided a position paper to the Minister on February 3, 2021.

On March 5, 2021, the Province launched a 90-day consultation period for feedback on municipal codes of conduct. Requesting comment through public consultations, the Province sought to 'strengthen municipal codes of conduct' by looking at 'ways to increase accountability of council members'. The public consultations were aimed at ensuring that members of municipal councils respected the rules of a safe and respectful workplace in the fulfilment of their ethical duties. The Province used the AMO submission as a foundation to the survey sent to municipalities and the public seeking

their comments on AMO's recommendations to the Minister, which included proposals on:

- Increased financial penalties to encourage compliance/suspension from public office for certain violations
- how to more effectively enforce these codes
- whether a broader range of penalties for violations of the codes of conduct are needed
  - Removal from office in certain circumstances
  - Better training and standards for integrity commissioners

Any person was able to complete the Province's online survey until July 15, 2021. A report back was anticipated in early 2022. Given that 2022 will have both a Provincial and Municipal election in Ontario, it is likely that this very important discussion will be concluded after the elections.

## ETHICS, GOVERNANCE AND HUMAN RIGHTS

In 2021, Zincia Francis was hired as the City of Vaughan's first-ever Diversity and Inclusion Officer. The role resides in the Office of the Chief Human Resources Officer and is part of the Senior Leadership Team providing strategic guidance and advises on policies, processes and procedures related to Diversity Equity and Inclusion.

The City's Diversity, Equity and Inclusion Plan and Multi-Year Action Plan was developed by as developed by Ms. Francis and this was endorsed and ratified by Council in April 2022. The City developed and is now implementing Diversity, Equity and Inclusion e-Learning for all staff. As part of the learning and development activities under the DEI Plan, the Senior Leadership Team received training by Patricia DeGuire, Chief Commissioner of the Ontario Human Rights Commission, jointly with Ms. Francis and this Office.

As part of the work developed by Ms. Francis, following a successful public recruitment process, the City of Vaughan hired Dr. Woyengi Gigi Goary (PhD) as the successful candidate for the Anti-Racism Specialist, reporting to Zincia Francis, Diversity and Inclusion Officer in the Office of the Chief Human Resources Officer. She will begin working in this new role May 9, 2022. In light of her doctoral education, her lived experience as a Black woman, and her diverse leadership experiences, Dr. Goary is exceptionally positioned to work to advance racial equity, decolonization practice, and positive community interconnections and interrelationships with all racialized communities. I look forward to continued collaboration with both the Diversity and Inclusion Office and her newly appointed staff, Dr. Goary, in the development of policy that acknowledges the intersectionality of ethics and human rights.

# FINANCIAL STATEMENT

Salaries & Benefits	321,746*
Seminars & Workshops	0
Computer Software	0
Training & Development	0
Copier/Fax Supplies	0
Copier/Fax Lease Charges	14
Professional Fees	36,021
Cellular Line Charges	535
Memberships/Dues/Fees	580
Office Supplies	433
Hardware Equipment	0
Rental, Leases - Buildings	27,970
<b>Total</b>	<b>387,299**</b>

The Office of the Integrity Commissioner's fiscal year runs from January 1, 2021, to December 31, 2021.

\* Salaries include remuneration of Integrity Commissioner, Lobbyist Registrar, Executive Assistant for the Office of the Integrity Commissioner and Lobbyist Registrar and respective benefits

\*\* ICLR Yearly 2021 Budget was 526,647. There was a variance of 139,348 savings in 2021.

# EXAMPLES OF IC ADVICE

**Q**

Does the Code allow a Member of Council do a small clip of himself telling his followers on social media being Facebook and Instagram, to support a Charity Event?

**A**

Rule 2.3 of the Code states that, Nothing included in [Rule 2.3] affects the entitlement of a Member of Council to:

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; Section 9.1 of the Council Member Expense Policy states that:

- Advertising is permitted (eligible expense Council Member Budget) if it is related to the business of the City of Vaughan in all types of media of charitable/non-profit organizations with either an address in Vaughan, holding the event in Vaughan or providing services to Vaughan
- The organization must either provide a registration number (charitable or non-profit) or must have Community Service Organization (CSO) status with the City of Vaughan

The fact that the organization may not be captured within the CRA definition of charitable organization, does not preclude the Member from urging constituents to support the community organization's fundraising efforts. The Code Rule speaks to lending support to community organizations, most of which are charitable organizations and not-for-profits, but the Rule does not speak exclusively to groups with this designation. Since Facebook and Instagram are not using [the Member's] office budget (in that, a small portion of time of his/her office administrative staff may be directed towards posting his clip on his social media platforms), it is the position of this Office that doing a small clip encouraging support of the fundraising effort is an activity permitted under the Code

**Q**

As a Councillor can I take a position in favour of a development when the matter comes to Council?

**A**

A Councillor may be pro-development, pro-green space, pro-affordable housing, pro-paper bags in retail stores. However, as long as a Member doesn't have a closed mind and as long as they are not promoting their own personal interests or those listed in the MCIA, then a member of council can try to persuade other members and vote based on the information before them in public and confidential staff reports and public deputations.

**Q**

If I say on my social media account that I am opposed to a development, is this contrary to the Code rules?

**A**

On its face, this statement could give the perception that a Member has a closed mind. However, given that elected representatives are expected to have strong views about matters of public importance, a relaxed standard is generally applied. In other words, a Member of Council can express their strong views about a matter of public importance, including that a proposed development may present as unacceptable based on the proposal in its current iteration. A "closed mind" means that there is an "expression of a final opinion on the matter, which cannot be dislodged" (Old St Boniface at p. 1197).

Up until the adjudicative hearing commences, a more relaxed "closed mind" standard applies. In Old St Boniface, the Supreme Court of Canada stated that it is for the court to form an opinion on whether the decision-maker had an open mind (at p. 1197).

A more recent decision set out that the lack of confidence of an open mind of a member of council, in the face of a clearly adverse attitude reflected in a history of adverse statements was, in the court's view, sufficient to find that a reasonable and informed person who thought the matter through would believe the member had a reasonable apprehension of bias. A statement by a Member that they

oppose a development does not mean they are definitively against any future approval but may be evidence used to prove that the Member may be unable to approach the matter with an open mind.

A Member is encouraged to make statements that demonstrate that while they may generally be opposed to the application in its current form, they are however open to working with the applicant and listening to hearing how the applicant may address the community concerns.

**Q**

A Member was asked by a community group to promote the charitable fund created by the group to serve the community. Is this allowed under the Code?

**A**

Rule 2.3 of the Code states that the 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. The Code recognizes the important work of Members of Council in supporting charitable causes and the need for transparency in Members' involvement. As a result, the Member and their staff are permitted to share information about the availability of the fund in the Councillor newsletter. However, the Member should refrain from publicly promoting the fund beyond informing the community of the needs and purpose of the charitable initiative.

**Q**

Can an individual Member of Council sponsor a flower bed in a Vaughan program?

**A**

With reference to whether individual Members of Council can sponsor a flower bed, given the purpose of the initiative which was adopted by Council on May 20, 2020, the program was intended to "provide a low-cost advertising opportunity for local businesses in high-traffic

areas throughout the City through the sponsorship of city flower beds. 80% of the net revenue generated goes back into Horticulture Operations and City beautification, the rest goes to administration, marketing and benefit delivery. While the desire of individual Members of Council to participate in the initiative is laudable, the stated purpose of the Grow with Vaughan is a revenue generating partnership where businesses may receive advertising at a reduced rate allowing the revenue generated by the business sponsor transaction to fund the City beautification, administration, marketing and benefit delivery.

Section 4.1 of the Council Member Expense Policy states that Public funds may not be expended or committed for personal use, non-City business use, campaign or elected related purposes. The foundational premise of the Grow with Vaughan program is to discover creative ways to generate revenue to run City services. Individual Members of Council cannot use personal funds to participate in a City initiative while in office and cannot use Council member office budget to fund City initiatives. Funding City initiatives is not the purpose of providing individual Members of Council with an office budget and using one's Council member budget to fund City initiatives would lead to an absurd result: using City funds (Council member office budget funds) to fund City initiatives. The purpose of City partnership is to find new resources and not to take City resources already earmarked to support the basic functions of individual Members' offices, to fund other City initiatives.

**Q**

A Member recorded greetings for a virtual charitable event in their Ward. The Member received a "thank you" gift for this activity. Can the gift be accepted?

**A**

While the Code permits Members to receive a token gift after a speaking engagement, for any gift valued at the amount set out in Rule 2 of the Code, the Member must complete a Donor Declaration Form and forward to the Integrity Commissioner for review. The Integrity Commissioner not only takes into consideration the value of the gift but whether the gift is an appropriate item in terms of the role of an elected official and the requirement to avoid a real or perceived conflict.

# CONCLUSION

Leadership and ethics are interconnected. To behave ethically is to behave in a manner consistent with what is right. However, an individual Member of Council cannot be their own arbiter of what is right. For this reason, a written Code of Ethical Conduct sets out standards that are designed to provide a reference guide that all Members agree to follow to enhance the City's reputation and integrity.

Code of Conduct ethics can be defined as rules and regulations that have been developed and approved to govern individual Councillor conduct to be aligned with the values of the organization that should parrot statutory requirements. The Council Code of Conduct imposes requirements on how an elected official conducts her, him or themselves in the public interest and to ensure that Members of Council share a common basis for acceptable conduct.

Integrity is when the imposed ethical rules (based on the approved values of the organization) are followed, believed and lived. When ethics rules enshrined in a Council Code of Conduct are not followed consistently, there is window dressing, and the ethical office loses credibility with the public.

As stated by Justice Bellamy:

**Values must be more than “ethical art”: a nicely framed code of conduct hanging on the wall.**

Integrity, said author C.S. Lewis, “is doing the right thing, even when no one is looking.” Integrity is a foundational principle in Vaughan's accountability framework for Members of Council, and the bedrock upon which the Council Code is built.

I was pleased to see the formation of the City's Governance and Oversight Task Force. In 2019, Mayor Maurizio Bevilacqua and Members of Council approved various task forces to address a range of important policy areas. The Governance and Oversight Task Force was Chaired by Ward 2 Councillor Tony Carella and the Vice-Chair, Ward 5 Councillor Alan Shefman. Effective Governance and Oversight Task Force (“EGOTF”) had as an overall mandate to make recommendations that ensure the City is at the forefront of accountability, transparency and regulatory governance. This included exploring how the City of Vaughan could further enhance its governance



framework; improving City Council's decision-making processes and procedures; and clarifying roles and responsibilities.

As the Integrity Commissioner and Lobbyist Registrar for the City of Vaughan, I receive emails, telephone calls and correspondence from the public with concerns about ethical breaches. Through meetings, investigations, review of materials, interviews with parties, staff and relevant agencies, this Office examines documents and electronic records relevant to reaching a determination on whether there has been an ethical breach. The Municipal Act contains the statutory basis for the authority of the Integrity Commissioner, which does not include own motion powers. This power allows an ethics officer to investigate any action with her investigation authority. “Own motion power is not used frequently by the [ethics officers] for two main reasons. One is that of preservation of resources, the view being held that the limited resources of the office should more properly be directed to the resolution of complaints that have been brought to attention by members of the public. The second is that the [ethics officers] have been cautious not to adopt a role of second-guessing the government...”<sup>13</sup>

**Code of Conduct investigations for municipal integrity commissioners are complaint driven. “The City of Vaughan Council established the Office of the Integrity Commissioner, as well as the Code of Conduct that sets out the ethical rules governing the conduct of members of Vaughan Council. The Integrity Commissioner responds to complaints within the framework of the Complaint Protocol, a Council by-law that sets out the process for receiving, investigating and reporting her opinion to the Council.”<sup>14</sup>**

<sup>13</sup> Own-motion investigations by Ombudsmen, Research and Information Service Briefing Paper. Northern Ireland Assembly, 10 January 2014.

<sup>14</sup> Di Biase v. City of Vaughan; Integrity Commissioner of the City of Vaughan, 2016 ONSC 5620



If the Integrity Commissioner is of the opinion that the Complaint is frivolous, vexatious or not made in good faith or there are no or insufficient grounds for an investigation then the Integrity Commissioner shall not conduct an investigation. It is often the case, however, that after an initial classification review, the Integrity Commissioner is unable to form the opinion that a Complaint is frivolous, vexatious or not made in good faith or that there are no or insufficient grounds for an investigation, without hearing from both parties.

During the reporting period, this Office has determined that the matters brought forward for review relate to complaints and concerns about policy of the City or absence of same; matters more appropriately pursued through the courts or brought to the attention of one of the Provincial regulatory agencies tasked with environmental protection, as well as health and safety. 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 including attempting to obtain clarification on policy gaps through the Code complaint process.

This report sets out that the activities of the Office and the dismissal of the complaints brought forward during the reporting period, are due to the fact that there have been determinations that there were no grounds to investigate, or a matter was not on its face a Code complaint. This Office fairly applies the Code rules to the actions and behaviour of individual Members. Through committee and council meetings, correspondence and deputations, the public

has identified through Code complaints, that some of the policies in force at the City may need to change. Meaningful discussions have taken place at the EGOTF, the Diversity and Inclusion Task Force and departmental meetings having as their subject, governance, public engagement and service delivery. As is occurring at this time with the updates to planning and other City department policies, it is encouraging to see that the Ontario government took steps to receive feedback from the public on how to strengthen municipal codes of conduct as well. While these discussions take place, the Vaughan Code, procedural and policy rules remain living documents, often touted by other municipalities within and beyond Ontario as examples of best practices in accountability. I acknowledge that more work can be done, however I recognize that a significant amount of work is being done by staff and Members of Council to address issues that affect public service. This has been a difficult time of closures and loss due to the Covid-19 global pandemic. City staff and Members of Council have responded promptly to requests from this Office for information regarding formal and informal complaints. The numbers in this report reflect the fact that the rules of the Code are being followed; the process for holding Members accountable is in place and is effective. The principles of accountability and transparency, which are codified in the City's governance model, provide the public with the assurance of integrity in the City's decision-making processes. As evidenced by the favourable court decisions with respect to challenges to decisions of this Office, as well as requests for information from other jurisdictions, the City of Vaughan's accountability regime is held as a model to be followed by ethics officers at the municipal and provincial level and beyond.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Suzanne Craig', with a stylized, flowing script.

Suzanne Craig  
Integrity Commissioner and Lobbyist Registrar





VAUGHAN CITY HALL

City of Vaughan | Office of  
the Integrity Commissioner  
& Lobbyist Registrar

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2141 Major Mackenzie Dr., Vaughan, ON L6A 1T1

For information about the Integrity Commissioner's  
office please visit us [here](#)

For information on the Lobbyist Registry, please  
visit us [here](#)