
From: Mark Hopkins [REDACTED]
Sent: Friday, January 20, 2023 3:50 PM
To: Council@vaughan.ca; Clerks@vaughan.ca
Subject: [External] 2023 Operating Budget - End Illegal Truck, Sea-Container and Aggregate Yards on Agricultural Lands Project

Dear Mayor and Council Members:

The attached communication is submitted for your consideration for the 2023 Operating Budget and 2024-26 Strategic Plan. It is based on email exchanges and discussions with staff, data from a recent Access to Information Request, 10+ deputations (Dec 6th), a related resolution (Dec 13th) and discussions with and input from impacted residents and business owners in Ward 1. It sets out the rationale for 14 activities and a different approach - projectizing resources - to deal with the egregious, juggernaut of illegal businesses devouring Vaughan's prime agricultural land to park stacks of sea-containers and trucks and to operate aggregate yards.

I look forward to discussing this matter as a Deputant on January 24.

[Mark Hopkins](#)

January 20, 2023

Dear Mayor and Councillors:

RE: 2023 Operating Budget & 2024-26 Strategic Plan - End Illegal Truck, Sea-Container and Aggregate Yards on Agricultural Lands Project

A. Recommendations/Requests:

that the 2023 Operating Budget include funds for the following activities and related resources using a project model, as discussed hereunder:

1. We ask that residents identifying infractions and the respective Ward Councillor(s) be advised regularly on the status of enforcement files, subject to MIFIPPA and legal considerations.
2. We ask that the Planning Dept. not accept zoning amendment applications when a site is being investigated or cited for zoning infractions.
3. We ask that Enforcement and Planning services communicate and collaborate more efficiently and effectively to stop the illegal loss of agriculture land.
4. We ask that withdrawn prosecution files be re-opened and infraction evidence renewed/re-built for prosecution.
5. We ask that ALL illegal agriculture land use infraction prosecutions seek the maximum commercial fine.
6. We also ask that you request the Attorney General of Ontario to increase the maximum Provincial Court commercial fine to \$100,000.00, so that what is currently considered a 'cost of business' has a significant impact on the bottom line of illegal businesses.
7. We ask that funds be included in the 2023 Operating Budget to support the Council Resolution in the December 13th Minutes for specific training for JPs and additional Court resources, etc.
8. We ask that the investigation/evidence processes be improved with training, development and quality control.
9. We ask that the 2023 Operating Budget include funds to hire or contract additional investigative and prosecution resources.
10. We ask that the 2023 Operating Budget include funds for the City Solicitor to engage experienced outside Council to prosecute injunctions against all illegal truck, sea-container and aggregate yards operating on agriculture land.
11. We ask that the 2023 Operating Budget include funds and the expenditure authority for the City Solicitor to move quickly to end illegal commercial operations on agriculture land.
12. We ask that Vaughan's Communications Department develop and implement a proactive compliance communications plan before Q2 2023, patterned on the Town of Caledon model.
13. We ask that commencing in Q2 2023, quarterly, integrated dashboard data on illegal commercial use of agriculture land and related zoning amendment applications be made public.
14. We ask that the funds be included in the 2023 Operating Budget for a full time Project Manager and necessary team resources to end illegal commercial use of agriculture land, and that an End Illegal Truck, Sea-Container and Aggregate Yards on Agricultural Lands Project be established as soon as possible.

B. Background

Of all levels of government, the services (or lack thereof) assigned to lower tier municipalities most directly affect citizens' daily lives.

In a democracy, the legitimacy of a municipal government is confirmed periodically at the ballot box and when we pay our taxes. We elect you to manage and deliver your provincially mandated responsibilities and services in our interest, and thereby ensure our personal and community quality of life and safety. Failure to do so, undermines citizens' trust and erodes belief in democracy and the rule of law.

My rural neighbours and friends feel that we live in the forgotten corners of Vaughan when it comes to land use enforcement services because illegal commercial use of agriculture land is increasing rapidly, in number, size, frequency and community impact. As a result outdoor activities in our yards and on our streets/roads are unbearable and dangerous. This communication discusses the issues and proposes actions to achieve tangible and measureable outcomes.

C. Ineffective Enforcement Service Example – 11621 Cold Creek Road

In April 2020, City of Vaughan Enforcement Unit was notified that a 60 m long culvert had been installed on the road allowance to build a new entrance for the new property owner, top soil removed to form a berm which was back filled with aggregate to build a base for truck parking. During 2020 – 2022, Staff made numerous site visits in response to our complaints – including an oil spill, noise, continuing site works, heavy truck storage, road load limits exceeded, etc. On Sept 12, 2022, Vaughan issued *Notice of Encroachment* and *Notice of Remedial Works* to the property owner. On or about Nov 4, 2022, Vaughan posted notices and blocked the illegal entrance. The illegal operator dumped gravel in the ditch to widen an historic residential driveway to accommodate tractor trailers. This action blocks the drainage ditch.

As of Jan 20, 2023, there has been no enforcement action on these notices and the illegal operation continues.

- 1. We ask that residents identifying infractions, and the respective Ward Councillor(s), be advised regularly on the status of enforcement files, subject to MIFIPPA and legal considerations.**

D. Ineffective Enforcement Service Example - 0 Highway 50 (Lot 28 Concession 11)

This 10.8 acre illegal sea-container operation fronts on Highway 50, backs and is accessed via a Cold Creek Road illegal entrance. It was notified to By-Law on Oct 1, 21. This site metamorphosed from a 24 private tennis court proposal to a 10.8 acre sea container depot which recently expanded. It was served with a Zoning Notice of Violation on Jan 7th, 2022. On April 11, 2022, the owners filed a seek relief application and a site plan amendment. As of today, Planning will not release the site as it is in the Hwy. 413 Study Area. In many instances Enforcement investigates after the horse has bolted the barn and heads to Planning for care and grooming.

- 2. We ask that the Planning Dept. not accept zoning amendment applications when a site is being investigated or cited for zoning infractions.**

We observe from this and Vaughan King Road sites that enforcement and Planning operate in silos. We also note that illegal operators set up non-compliant businesses with the expectation that they will get the required zoning approval. While property owners are entitled to seek a change in zoning, an application should not be accepted from a non-compliant commercial operation.

- 3. We ask that Enforcement and Planning services communicate and collaborate more efficiently and effectively to stop the illegal loss of agriculture land.**

E. The Scope of the Problem

In August of 2022, I was informed in an email from the Manager-Enforcement Services that:

*Currently we have ongoing investigation blitzes [primarily] in **Ward 1** along the King Vaughan corridor and the Cold Creek Road area numbering **60+ active and ongoing zoning investigations** for non-permitted uses and other breaches of the local Zoning Bylaws involving truck yards, outside storage, and other such peripheral zoning issues/infractions.*

Since that time we have seen more illegal yards established on agriculture land and existing yards greatly expanded.

There is now a super yard that has become operational and is expanding, run by S & R at 10481 Highway 50. This facility is adjacent to the main arteries – Hwy 50 and Major Mackenzie Drive. The lands at 10481 Highway 50 are part of flood zones identified by the Toronto Regional Conservation Authority. The grading at the site uses low-grade material including recycled concrete and asphalt. This has a direct negative affect on the environment lands involved and could very easily become irreversible if not dealt with in a timely manner.

S & R's illegally operated container yard was located originally at 5253 Old Castlemore Road. This is an 8 acre site where currently there are over 1600 containers stored unlawfully. The City of Brampton placed barricades blocking the entrance in September 2022 which were promptly removed by the owners and the illegal activities continued. S & R at the start of October 2022 expanded their illegal and lucrative practices by taking possession of 50 acres at 10481 Highway 50. It was brought to the attention of Vaughan that agricultural land was being prepared for the storage of illegal shipping containers.

This new S & R yard needs to be stopped in its tracks and a message sent to all of the illegal operators that Vaughan has a zero tolerance to all illegally operated businesses. Given the lack of effective response by Vaughan City Hall and their various departments, S & R appear to have no fear of operating illegally in Vaughan. They are doing it in clear view knowing Vaughan will not stop them despite multiple complaints by constituents.

Another company, Gusgo, also expanded their operation at the junction of Highway 50 and Major Mackenzie over the last 3 months. Over the last 4 weeks Gusgo has placed over 1000 containers on agricultural land!

Apra Transport is located on Nashville Road (which is not a truck route) 50 metres south of Kleinburg Christian Academy and Church. Apra has recently moved soil, imported aggregate and created a berm to expand its site for sea-container storage. The Academy operates a kindergarten and middle school for children aged 4 to 13 years. The school has confirmed that there have been a number of reported incidents of traffic violations by truckers having no regard for the law when parents have dropped off or collected children.

Multiple small illegal yards also contribute to a huge, growing problem. These small yards are 4 to 6 acres in size and when totalled, come to about 45 acres.

F. Food Insecurity Risk

To be commercially viable, a cash crop farmer requires 3000 acres made up of smaller parcels within a reasonable distance for mobilizing large equipment. The incremental loss of agriculture land will result in a tipping point when farming in Vaughan is no longer commercially viable and we become ever more dependent on imported food.

G. No Employment Benefits

In addition to loss of crop land, hundreds of acres for parking thousands of empty sea-containers represents the reality of our import economy. When we import most of our consumer goods, well paid middle class manufacturing jobs are not created here. They are outsourced to low wage countries. Container storage revenue only benefits illegal business owners. While the sector employs hundreds of truck drivers, many are based and licensed in other provinces and in the USA. Fulfillment Centres and logistics warehouses are highly automated and provide primarily minimum wage jobs that do not enable employees to afford housing in Vaughan. None of the illegal operations are close to public transit.

H. Overcoming Legal Barriers - 2023 Operating Budget

In response to our Deputations in September and December 2022, requesting more effective action on illegal truck yard operations, the Deputy City Manager, Community Services, observed that the York Region Courts had a backlog of POA prosecution files due to Covid closures and now has fewer JPs than prior to the Pandemic.

The result is prosecutions have been dropped, ostensibly in 'the public interest' which is a euphemism for "I am not personally impacted so it doesn't really matter". We, the impacted, care a lot.

4. **We ask that withdrawn prosecution files be re-filed and infraction evidence renewed/re-built for prosecution in Provincial Court and for seeking Supreme Court injunctive relief.**

The POA maximum fines are too low recognizing the immediate and long term impact, and the inordinate revenue earned by these illegal businesses.

5. **We ask that ALL illegal agriculture land use infraction prosecutions seek the maximum commercial fine.**
6. **We also ask that you request the Attorney General of Ontario to increase the maximum Provincial Court commercial fine to \$100,000.00, so that what is currently considered a 'cost of business' has a significant impact on the bottom line of illegal businesses.**

As JP's may not understand the impact of illegal operations on law abiding residents and businesses, and may not be sensitive to the permanent loss of agriculture land to our food security,

7. **We ask for funding to be included in the 2023 Operating Budget to support the Council Resolution in the December 13th Minutes for specific training for JPs and additional Court resources, etc.**

(Committee of the Whole Report No. 43, Item-3 Enforcement Options for Unlawful Uses of Agricultural Lands).

While the Region of York is responsible for pursuing zoning violations in Provincial Court, the City of Vaughan Solicitor is responsible for pursuing injunctive relief in the Supreme Court.

In his August 2022 email the Manager-Enforcement advised that:

City staff have reviewed our litigation records for the last five years and have not found any injunctions brought against illegal truck yards.

Why has City of Vaughan Solicitor NOT filed an injunction in past 5 years? What are the reasons?

Lack of evidence?

8. **We ask that the investigation/evidence processes be improved with training, development and quality control.**

Lack of prosecutorial resources?

- 9. We ask that the 2023 Operating Budget include funds to hire or contract additional investigative and prosecution resources.**

Lack of injunction experience?

- 10. We ask that the 2023 Operating Budget include funds for the City Solicitor to engage experienced outside Council to prosecute injunctions against all illegal truck, sea-container and aggregate yards operating on agriculture land.**

Insufficient legal budget?

- 11. We ask that the 2023 Operating Budget include funds and the expenditure authority for the City Solicitor to move quickly to end illegal commercial operations on agriculture land.**

I. Promote Compliance

Land use infractions are considered strict liability offences. The prosecution doesn't need to prove that a defendant intended to do something that's illegal. The prosecution doesn't even need to establish that the defendant was reckless or negligent. It's enough for a conviction to prove that the act was committed and the defendant committed it.

While ignorance of the law is not a defence, it is in everyone's interest that Vaughan proactively communicate to its residents and businesses, the zoning and other requirements to operate a legal business - truck, sea-container and aggregate yards, etc. The Town of Caledon has an excellent, accessible document that links to the appropriate Bylaws to encourage and support the logistics sector, and to support residents and businesses impacted by illegal operators. The Town of Caledon's Manager of Communications has informed us that Vaughan will not encounter intellectual property barriers to using some or all of their content.

- 12. We ask that Vaughan's Communications Department develop and implement a proactive compliance communications plan before Q2 2023, following the Town of Caledon model.**

J. Council Resolution Adopted Dec 13, 2022

The 8 actions summarized below and adopted by Council start to move the needle in the right direction as they bring a focus to the issue and engage relevant stakeholders. However, the list falls to departments that work in silos. This needs to change. It also requires important new work and activities to manage these and other stakeholders stakeholders.

1. Staff correspondence to logistics sector identifying illegal operators to discourage use.
2. Staff contact Alectra & other utilities to inquire measures (if any) prohibiting services to illegal operators prior to service activation
3. City contact CRA & provincial Ministries informing them of illegal land use violations
4. City staff coordinate joint enforcement efforts
5. Letter from Mayor & City Clerk to AG., cc RM York supporting more JPs & JP training
6. Staff coordinate efforts with RM York, YRPS & MOT re illegal truck traffic on rural roads – inspections, weight limits, etc.
7. Forward Resolution to local MPPs & Minister of Transportation
8. Staff reports Q1 2023
 - a) Staff investigate dedicated land use matters staff resource for 2-year period
 - b) Staff investigate implications of taking back ownership of Vaughan King Rd.

K. Improving Outcomes in 2023> the Way Forward

At a high level, the activities of any organization fall into 2 categories – business as usual and projects. The examples, questions and 'asks' above clearly demonstrate that business as usual is not effective in stopping these illegal operations. The very serious and real impacts on our homes, communities and lives continue. To the extent that we may

be physically or emotionally harmed, and you do not take reasonable and effective measures to prevent the harm, you are at least complicit and could be culpable.

Following our December 6th Deputations describing the impacts, supported by video and photos, it was clear from the comments and questions of Councillors that you were surprised and shocked by the magnitude of the problems some of which have been ongoing for decades. Your responses identified a major gap in City governance – **you cannot manage what you don't measure.**

13. We ask that commencing in Q2 2023, quarterly, integrated dashboard data on illegal commercial use of agriculture land and related zoning amendment applications be produced and made public.

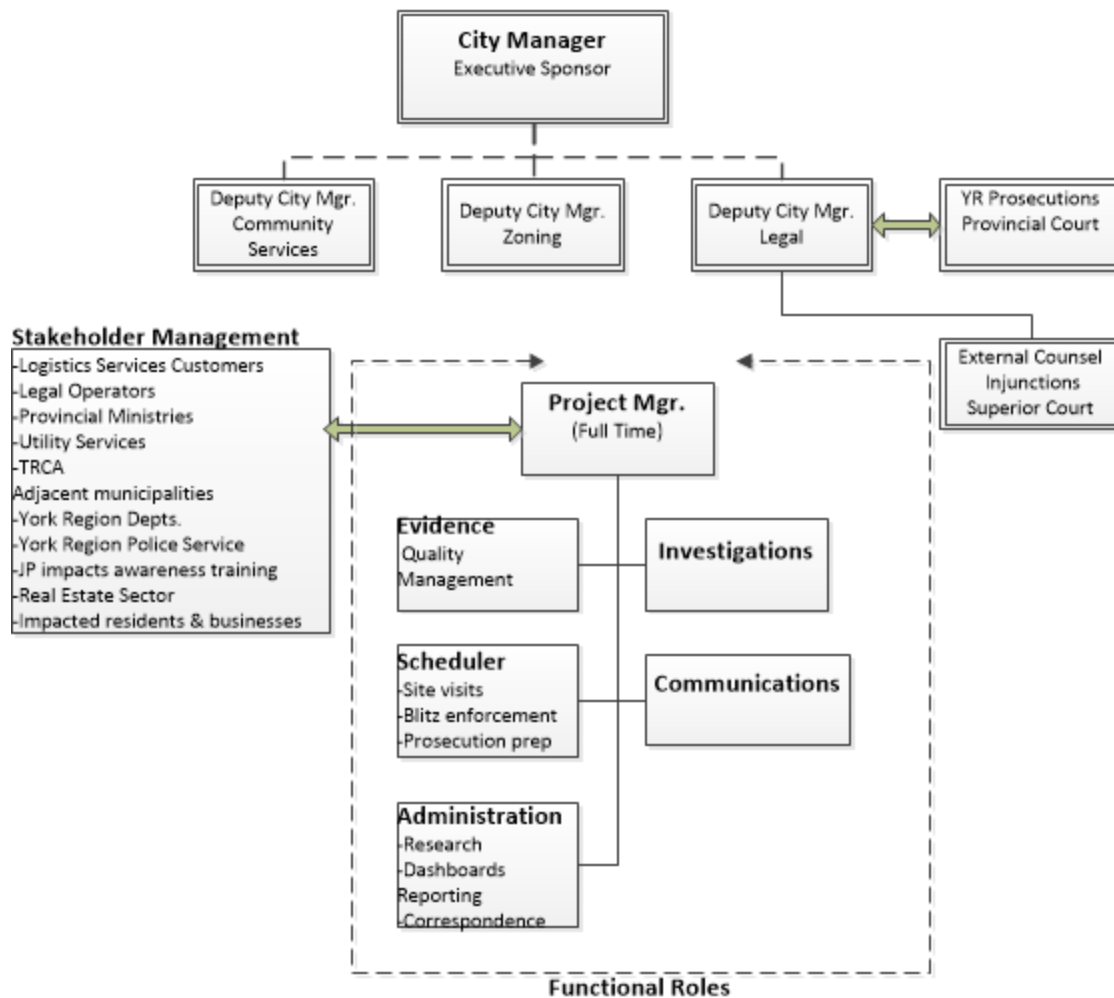
The problem of ineffective outcomes is in part structural as each department has its own responsibilities, processes and day-to-day priorities. The day-to-day responsibilities of various units, managers, officers, etc., of the City structure report to 3 Deputy City Managers – Community Services, Legal and Zoning – which results in fragmented accountability to Council.

This fragmentation, embedded in business-as-usual processes, is neither agile nor effectively preventing the loss of agriculture land to aggressive illegal operations. While truck yards are created over a weekend getting the offender's file to Provincial Court takes at least 2 years. If the result is the maximum \$5000 fine (the few fines levied on Vaughan's Court files are about \$200), that is easily paid from 2+ years revenue. There is no incentive to comply with zoning and by failing to seek or get an injunction in High Court, agile, aggressive illegal operators have descended in Vaughan.

Being an Enforcement Officer is a difficult and challenging job that is subject to threats and verbal abuse. It requires patience and perseverance. The Officers and Managers have been responsive to our calls and emails. We appreciate their time and effort. It is to their credit and professionalism that after Covid stressors, years of no real enforcement 'wins', and the juggernaut of large, illegal operations sweeping into Vaughan, that Enforcement Officers are not jaded, cynical, burnt out or depressed.

Continuing to do the same thing the same way and expecting a different outcome is a definition of madness. Silos and fragmentation can be overcome by taking a project approach a problem. Ideally this would be a dedicated team. However, in a time of budget constraints, this can be achieved by projectizing current resources in cross-functional team with a defined objective and delegated accountability to deliver. To be successful, requires a dedicated, full-time Project Manager who draws on resources from a matrix organization.

Below is a functional project model. It is designed to rectify serious issues that require time, commitment, agility and focus to counter the speed at which illegal businesses are set up and expand in rural Vaughan.



In this model the Executive Sponsor is accountable to Council to deliver the project outcome – end and stop expansion of illegal commercial operations on agriculture land. S/he leads, supports and coordinates a coalition of senior operational managers with separate accountabilities. The Sponsors ensure that the Project Manager has the authority, resources and support to successfully deliver the project. As a group the Sponsors provide direction, set priorities, resolve issues and remove barriers to success. Becoming more agile involves a change in culture to support new or modified processes. The Sponsors define and lead the change road map which includes proactive communication, training for adoption and measurement of progress.

The Project Manager is a critical, full time role for the project duration with delegated authority to make decisions, including escalations, to the appropriate Sponsor. Her/his responsibilities include:

- Providing the primary point of **accountability** for achieving objectives and outcomes defined by the Sponsor;
- Ensuring the **integrated delivery** of investigation, prosecution and Zoning services to protect agriculture land;
- **Developing and managing** the project **resources and interdependency plans to coordinate** activities and achieve milestones;
- **Managing project communications** internally and with stakeholders
- Providing stakeholders and Sponsors with **regular progress updates**;
- Providing the primary **point of contact for interfacing to Investigations, Finance, Legal, Policy and Communications resources**; and,
- **Managing the project budget.**

14. We ask that the funds be included in the 2023 Operating Budget for a full time Project Manager and necessary team resources to end illegal commercial use of agriculture land, and that an *End Illegal Truck, Sea-Container and Aggregate Yards on Agricultural Lands Project* be established as soon as possible.

Respectfully submitted

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