

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): ALL

TITLE: BY-LAW TO PROTECT VAUGHAN'S VULNERABLE SOCIAL INFRASTRUCTURE

FROM:

Gus Michaels, Deputy City Manager, Community Services

ACTION: DECISION

Purpose

This report is further to a Member's Resolution presented by Mayor Steven Del Duca to Committee of the Whole on May 8, 2024, directing staff to return with a By-law, to be considered and voted upon by Council, that prohibits demonstrations of a nature that intimidate, incite hatred, violence, intolerance or discrimination within 100 metres, or within a reasonable distance, of a religious institution, school, childcare centre, hospital or congregate care facility.

Report Highlights

- Although hate crimes have been an ongoing concern in communities across the GTA, recent and ongoing international events have heightened tensions and increased incidence levels in Vaughan and those around the world. Public protests have also escalated and raised concerns over heightened violence, intimidation, and disrupted access to vulnerable social infrastructure.
- In his comments to Committee of the Whole on May 7, 2024, the Mayor stressed that the intent of his Member's Resolution is for staff to draft a By-law that protects all City of Vaughan residents.
- Staff are proposing the draft By-law, included as Attachment 1 to this report, which seeks to balance the fundamental importance of freedom of expression and freedom of assembly with the City's concern for the safety and well-being of its community members accessing vulnerable social infrastructure.

Recommendations

1. THAT Council approve the Protecting Vulnerable Social Infrastructure By-law, substantially in the form as provided in Attachment 1 of this report.

Background

Council approved a Member's Resolution directing staff to return with a by-law to protect Vaughan's vulnerable social infrastructure.

On May 7, 2024, Mayor Del Duca introduced a Member's Resolution: *Protecting Vaughan's Vulnerable Social Infrastructure* that identified the need for the City to take further action to help prevent unsafe protests that intimidate residents and incite hatred or violence. The Mayor's Member's Resolution also highlighted two large-scale protests that took place in Thornhill in March 2024 near synagogues, schools, childcare facilities, and congregate care facilities which led to Vaughan's residents having feelings of considerable distress and intimidation.

The Member's Resolution speaks to the need for all levels of government to take responsibility and work together to protect people in the places and spaces in our community where they may already be at their most vulnerable, such as at schools, hospitals, childcare centres, places of worship and congregate care facilities to safeguard the quality of life for residents of the City of Vaughan.

Finally, the Mayor's Member's Resolution directed staff to return with a by-law to protect Vaughan's vulnerable social infrastructure, while also safeguarding the right to peaceful protest or demonstration.

The Member's Resolution was unanimously approved during the May 7, 2024, Committee of the Whole (1) meeting, and was ratified during a Special Council meeting also on May 7.

Previous Reports/Authority

[Mayor Del Duca's Member's Resolution Re: Protecting Vaughan's Vulnerable Social Infrastructure, dated Tuesday May 7, 2024](#)

[Correspondence from Chief MacSween, York Regional Police Re: Members Resolution for Vulnerable Infrastructure Protest By-law](#)

[Correspondence from Jack Oliveira, LIUNA! Local 183 & LIUNA! OPDC Re: Resolution – Protecting Vaughan's Vulnerable Social Infrastructure](#)

Analysis and Options

International unrest has escalated in the past months, leading to increased feelings of intimidation and distress in communities in Vaughan and around the world.

Since the events that took place in Israel on October 7, 2023, the geopolitical unrest has escalated tensions in Canada, including across municipalities in the Greater Toronto Area. Hate crimes have been on the rise in the past six months, with a 93% increase reported by the Toronto Police Service compared to the same period last year, with the vast majority of crimes being categorized as antisemitic. Outside of Vaughan, several acts of violence and intimidation have occurred. For instance, in Toronto, Anshei Minsk Shul was vandalized and damaged on June 1, 2024 and shots were fired at Bais Chaya Mushka Elementary School on May 27, 2024. A fire was intentionally set at a place of worship for the Jewish community in Vancouver on May 30, 2024. In Montreal, there have been multiple incidents from November 2023 to May, 2024 of Jewish schools being shot at. In Mississauga in February 2024, rocks were thrown through the window of a mosque; this incident occurred on the anniversary of a deadly mosque attack in Quebec City that killed six people.

Since the war in the Middle East began in October 2023, the number of hate or bias incidents has risen by 104.5% in York Region (as of January 2024). The Ontario government is providing \$3.7 million over the next three years to the York Regional Police to help in three key areas to continue the province's plan to help protect communities, support victims of crime and keep people safe, which will assist in expanding targeted response to hate crime in the community.

The Vaughan community has seen several acts of intimidation, such as the vandalism at Chabad House of Maple on November 14, 2023, and the bomb threat targeting the Jaffari Community Centre on November 16, 2023, at which time the building was evacuated, and YRP officers conducted a search of the area. No physical injuries were reported, but community members were left emotionally affected. The bomb scare was determined not to be a credible threat, but criminal investigators and the hate-crime unit were notified. In March 2024, two large-scale protests took place in Thornhill, in close proximity to synagogues, schools, childcare facilities and congregate care facilities.

As a result of the events occurring worldwide and within Vaughan, Vaughan residents have experienced feelings of considerable distress and intimidation. For instance, residents affected by the protests in Thornhill reported that they felt trapped, targeted, terrorized, and intimidated. Some residents felt that both their physical and mental well-being was put at risk due to the atmosphere of fear and intimidation created by the protests.

The *Municipal Act* allows municipalities to pass by-laws relating to the health, safety and well-being of persons, and to prohibit and regulate matters that, in the opinion of Council, are or could become or cause public nuisances.

Municipalities are given the authority under the *Municipal Act* to pass by-laws respecting the health, safety, and well-being of persons. The *Municipal Act* further allows a municipality to prohibit and regulate public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances. The *Municipal Act* further states that the opinion of council with respect to what constitutes a public nuisance, if arrived at in good faith, is not subject to review by any court.

Staff are of the opinion that protests within Vaughan can reasonably be considered a matter relating to the health, safety, and well-being of its citizens. Likewise, certain types of protests can be considered a public nuisance.

The draft By-law seeks to balance the fundamental importance of freedom of expression and freedom of assembly with the City's concern for the safety and well-being of its community members while accessing vulnerable social infrastructure.

The proposed By-law would prohibit anyone from organizing or participating in a nuisance demonstration within 100 metres of the property line of any vulnerable social infrastructure.

Under the proposed By-law, a nuisance demonstration is a protest that causes a reasonable person to either (i) be intimidated, and/or (ii) be unable to access vulnerable social infrastructure. The By-law clarifies that being intimidated means a person is concerned for his or her safety and security. The By-law also explains that while intimidation can be caused by actions or expressions that incite hatred, violence, intolerance or discrimination, these are not the only behaviours that can lead to intimidation.

Vulnerable social infrastructure means a childcare centre, a congregate care facility, a hospital, a school or a place of worship. These types of facilities provide essential services to Vaughan's communities, and staff are of the opinion that all individuals should be able to access these essential services free from intimidation. Further, past experience has suggested that these locations are especially vulnerable as they have been the target of, or affected by, protests or acts of intimidation.

The By-law would also give the Deputy City Manager, Community Services, or designate, authority to close any roadway (including, boulevard, sidewalk, trail or pathway) or public place (including facility, park or parking lot) and redirect vehicular or

pedestrian traffic when necessary to ensure the health, safety and well-being of residents during or in anticipation of any nuisance demonstration.

The maximum fine associated with violating the proposed By-law would be \$100,000.

Other jurisdictions within Canada have sought to regulate protests in an effort to protect vulnerable social infrastructure.

To assist in drafting the requested By-law, staff conducted a jurisdictional scan of other Canadian municipalities to see how protests have been regulated. Several municipalities regulate protests through their noise by-laws by prohibiting noise that is likely to disturb their inhabitants (e.g. Ottawa: Bylaw No. 2017-255). Other approaches taken include a municipality limiting where a protest can take place in consideration of its size (e.g. Ottawa: Bylaw No. 2001-260 Special Events By-law), a municipality requiring a special event permit to be obtained for gatherings in a park with over 25 persons (Toronto Municipal Code, Chapter 608, Parks), a municipality prohibiting certain protests to take place within 100 meters of an entrance to a recreation facility or a library (Calgary: Bylaw 17M2023 Safe and Inclusive Access Bylaw) and a municipality prohibiting any communication by a person in a public space that would cause another person, reasonably in all the circumstances, to feel harassed (Edmonton, Bylaw No. 14614 Public Places Bylaw).

A similar jurisdictional scan was completed to understand how the Canadian federal government and provincial governments regulate protests. In British Columbia, the province enacted legislation that created “access zones” around abortion clinics, and the homes and offices of abortion providers. These zones are carved out public space, which exclude protestors from their immediate vicinity. The Ontario government enacted legislation that prohibits certain activities within safe access zones, such as abortion clinics and facilities. Such prohibited activities include a person performing or attempting to perform an act of disapproval concerning issues related to abortion services. Additionally, the "Safe Zones Around Religious Institutions Act, 2022" (Schedule 9 of Bill 86, the "Our London Family Act - Working Together to Combat Islamophobia and Hatred, 2022") was developed by the National Council of Canadian Muslims and debated in the Ontario Legislature in 2022. This legislation proposed that a \$25,000 fine be imposed on any person who performed an act of intimidation or disturbance, distributed hate propaganda, or uttered threats within 50 metres of the boundary of a place of worship. While the Bill was carried on a first reading, the Legislature was dissolved before the second reading meaning the proposed legislation could not be passed.

In the federal context, Bill C-3 amended the *Criminal Code* of Canada to create a new intimidation offence that protects health care workers or persons seeking health care services against intimidating conduct including threats or other forms of violence that are intended to provoke fear or to interfere with the duties of a health care worker or to impede a person from receiving health care services.

This legislative scan indicates that the City's proposed By-law complements the existing legislative schemes in place across Canada. That is, while the City's proposed By-law takes a relatively novel approach to regulating protests, it is still consistent with how other municipalities have sought to reasonably regulate protests across Canada.

The proposed By-law would allow Council to protect vulnerable social infrastructure while also respecting the right to peaceful protest.

Under the *Canadian Charter of Rights and Freedoms*, individuals have a fundamental right of freedom of expression and freedom to protest and demonstrate peacefully. Such expression is an important element of democratic society. The Canadian courts have established that fundamental rights have limits and, as such, there is a need to reasonably and responsibly balance the rights of freedom of expression and freedom of assembly against the health, safety and well-being of all persons in Vaughan's communities.

The proposed By-law specifically states that it is not intended to prohibit peaceful gatherings, protests or demonstrations, including any such activities that occur as part of a labour union strike.

In accordance with the May 7, 2024, Protecting Vaughan's Vulnerable Social Infrastructure Member's Resolution, staff will consult with York Regional Police to develop an enforcement plan.

Under the proposed By-law, York Regional Police (YRP) officers are enforcement officers with authority to enforce the By-law. Mayor Del Duca's Member's Resolution directed staff to engage with YRP regarding a joint enforcement framework. Staff have had discussions with YRP regarding the proposed By-law, and will continue to collaborate to develop an enforcement plan.

Financial Impact

There are no known financial impacts related to the enactment of this By-law.

Operational Impact

This report was prepared in consultation with Legal Services and York Regional Police. The proposed By-law will provide City of Vaughan Enforcement Services staff with additional enforcement tools to address nuisance demonstrations near vulnerable social infrastructure.

Broader Regional Impacts/Considerations

The recommendations in this report will also provide YRP and other law enforcement agencies with additional tools to address nuisance demonstrations in Vaughan within 100 metres of vulnerable social infrastructure.

Conclusion

The City of Vaughan is a community that prides itself in its diversity and inclusiveness. This diversity fuels creativity, innovation and vibrancy, but by its very nature, can sometimes also engender discourse and tension. Recent events abroad have tested the cohesiveness and resiliency of our communities. While the City understands that discourse and its resulting social tension is often a necessary, and integral, element of a healthy democracy, it also recognizes the practical need to continue to ensure the safety, security, well-being and long-term cohesiveness of its constituent communities. As such, it is recommended that Council adopt measures to draw a balance between free discourse and community viability, by limiting nuisance demonstrations in proximity to vulnerable social infrastructure.

For more information, please contact: Susan Kelly, Director and Chief Licensing Officer, By-law and Compliance, Licensing and Permit Services, ext. 8952

Attachments

1. Proposed Protecting Vulnerable Social Infrastructure By-law

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