

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 17, 2019

Item 3, Report No. 41, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on December 17, 2019.

3. FEASIBILITY ASSESSMENT FOR A FAIR WAGE POLICY FOR THE CITY OF VAUGHAN

The Committee of the Whole recommends:

- 1) That the report of the Deputy City Manager, Corporate Services and Chief Financial Officer dated December 10, 2019, be received;
- 2) That staff be directed to proceed with policy development under Option 3: “Adopt a Made-in-Vaughan Fair Wage Policy” as contained in the Prism Report in 2020;
- 3) That staff be directed to report back in 2020 on the remaining actions outlined in Option 3:
 - Determine how to develop, and then develop, Fair Wage Schedules;
 - Determine thresholds and industries to which it applies;
 - Determine legal obligation of prime contractors;
 - Determine Complaint versus Proactive investigation basis; and
 - Cost of Administration; and
- 4) That the following deputations be received:
 1. Ms. Melissa Atkins and Mr. Jeff Smith, International Union of Operating Engineers, Local 793, Speers Road, Oakville; and
 2. Mr. Michael Yorke, President, and Mr. Mark Lewis, General Counsel, Carpenters’ District Council of Ontario, Rowntree Dairy Road, Vaughan.

Recommendations

1. THAT Council consider this Report and the Prism Report in providing direction for next steps to promote health and safety and economic fairness for workers.
2. THAT to promote the health and safety and economic fairness for workers, Council direct staff to put into effect the identified actions under Option 1.

Committee of the Whole (2) Report

DATE: Tuesday, December 10, 2019

WARD(S): ALL

**TITLE: FEASIBILITY ASSESSMENT FOR A FAIR WAGE POLICY FOR
THE CITY OF VAUGHAN**

FROM:

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

ACTION: DECISION

Purpose

The City's consultant, Prism Economics & Analysis ("Prism"), has conducted a feasibility assessment for a Fair Wage Policy for the City and proposed several Options in that regard. Council feedback is sought on Staff's recommended Option, which feedback will inform the next steps of this initiative.

Report Highlights

- Prism was engaged to conduct stakeholder interviews, complete high level analysis and develop options for consideration on the adoption of a Fair Wage Policy for the City of Vaughan.
- Stakeholder consultations included Unions and Union Organizations, Employer and Business Organizations and Senior City of Vaughan staff
- Bill 53 – *Government Contract Wages Act* received Royal Assent on May 8, 2018, replacing Order-in-Council 773/95 and the Provincial Fair Wages Program (Fair Wage Schedules established by 773/95 have not been revoked)
- The Prism Report presents five Options for consideration when considering the feasibility of adopting a Fair Wage Policy for the City of Vaughan

Recommendations

1. THAT Council consider this Report and the Prism Report in providing direction for next steps to promote health and safety and economic fairness for workers.
2. THAT to promote the health and safety and economic fairness for workers, Council direct staff to put into effect the identified actions under Option 1.

Background

At the December 2016 Council meeting, staff Report 'Feasibility Assessment – Fair Wage Policy for City of Vaughan', in response to a May 2016 Council Resolution, was adopted as amended deferring consideration of a feasibility assessment for a potential Fair Wage Policy. It was identified that external resources would be required to complete a fulsome feasibility assessment.

In May 2017, staff advised Council that a contract for consulting services was awarded to Prism through competitive procurement RFP17-045.

Prism assessed the feasibility of implementing a Fair Wage Policy applicable to City of Vaughan construction contracts. The assessment included:

- Consultations with relevant stakeholders
- Review of Municipal, Provincial and Federal Fair Wage Policies
- Overview the underground economy and implications on workplace health and safety
- Review of implementation and budget implications of a Fair Wage Policy
- Review of Fair wage policies of other municipalities and provincial and federal governments
- Review and analysis of Labour costs in construction work tendered by City and other municipalities

A key component of this assessment was the consultation of Federal, Provincial, Municipal and labour organization stakeholders. In November 2017, staff advised Council that stakeholder consultations had been completed with:

- 7 unions and union organizations
- 10 employer and business organizations
- 6 municipalities with a fair wage policy
- City of Vaughan staff
- Provincial and Federal governments

While Prism and City Staff were finalizing the consultant's report, Bill 53 – *Government Contract Wages Act* 2018 (Act) received Royal Assent (May 2018). Prism considered the impact of this new Act on Fair Wage Policy in Vaughan.

The Prism Report '[Feasibility Assessment for a Fair Wage Policy](#)' outlines assessment results and Options for City to consider with respect to the adoption of a Fair Wage Policy. Each Option outlines additional work that may be required to be completed and the estimated cost associated with implementing the Option.

Previous Reports/Authority Council Extract May 21, 2016: FAIR WAGE POLICY FOR THE CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0502_16_8.pdf

Council Extract December 14, 2016: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1205_16_3.pdf

Council Extract May 16, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0501_17_2.pdf

Council Extract November 21, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1106_17_4.pdf

Analysis and Options Findings from Stakeholder Consultations

After stakeholder consultations, Prism summarized the topics of discussion into four categories: occupational health and safety performance, investments in training and apprenticeship, the underground economy and preventing a race to the bottom.

Occupational Health and Safety Performance

There are no studies which reveal a definitive connection between a Fair Wage Policy and stronger health and safety performance.

Prism reported that, based on its research, contractors that pay less than the prevailing wage are unlikely to incur the additional costs of investing in health and safety beyond the minimum requirements. On this basis, the Prism reports that establishment and use of a Fair Wage Policy could result in greater contractor investments in health and safety therefore improved occupational health and safety performance.

Investments in Training and Apprenticeship

While there is no definitive connection between a Fair Wage Policy and increased investments in training and apprenticeships, the design of a Fair Wage Policy can have an impact on this relationship. If the Policy were to only apply to direct wages, investments in training and apprenticeships would not be impacted. If the Policy were to take into account total compensation, including investments in training, there could be a positive connection between the existence of a Fair Wage Policy and greater contractor investments in training and apprenticeships.

Underground Economy

The Prism Report identifies two types of underground economies: (1) cash payments to general contractor who then pay their workers in cash and (2) improperly classifying employees as independent operators. Cash payments by City to general contractors is highly improbable due to the requirements for transparency. If a company chooses to use independent contractors instead of employees, the company can improve profitability by saving on payroll costs. A threat of scrutiny via a Fair Wage Policy could discourage these underground practices. It could also require contractors to ensure their subcontractors are remunerated at the prevailing wage.

Preventing a Race to the Bottom

This phrase refers to the potential to improve bid prices by reducing the remuneration paid to workers. As the construction industry is cyclical in nature, when times are good the labour market can be relied upon to maintain the prevailing wage. Over the last 10-15 years, the unemployment rate in the construction industry has not been high enough to trigger a race to the bottom. When unemployment rates are higher, a Fair Wage Policy could dissuade this practice due to the threat of scrutiny.

Jurisdictional Scan of Fair Wage Policies Completed

Federal Government

The federal government operated a Federal Fair Wage Policy from the 1930s until 1984 when the Policy was rescinded, following a change of government. The Federal Fair Wage Policy was then reinstituted in 1997 and continued until 2014 when it was rescinded. The current government has stated its intention to re-introduce a Fair Wage Policy. To date, no steps have been announced towards implementing this Policy.

Provincial Government

The Provincial Fair Wage Policy has operated without interruption since it was introduced in the 1930s. The most recent version of this Policy was based on Order-in-

Council 773/95. However, the Fair Wage Schedules under this Policy were last updated in 1995. Since 1995, wages for construction workers have increased by more than 50%, thereby rendering the province's Fair Wage Schedules largely irrelevant to actual market conditions. In May 2018, the government enacted Bill 53, The *Government Contract Wages Act* which, if implemented, would supersede OIC 773/95. Although enacted and proclaimed, The *Government Contract Wages Act*, has not been implemented. The new government has not indicated how it intends to proceed on this matter. Municipalities, it should be noted, are not 'prescribed bodies' under the Public Service Act of Ontario and, therefore, would not be covered by the *Government Contract Wages Act*, however, as described below, Vaughan could require contractors to adhere to any new Fair Wage Schedules created under that Act.

Municipalities

Of the 444 municipalities in Ontario, only six have Fair Wage Policies, representing less than 2 percent. Municipalities the currently have Fair Wage Policies are Toronto, Hamilton, Thunder Bay, Sudbury, Oshawa and Clarington. Toronto is the only municipality that undertakes proactive inspections and has an office dedicated to Fair Wage compliance. In the remaining five municipalities compliance is achieved through a complaint-based process and is investigated by the City's Procurement department. The figure below provides a summary of some of the components of other municipal fair wage policies at the time the Prism Report was prepared.

Figure 1: Components of Municipal Fair Wage Policies

	Process to Establish Wage Schedules	Sectors	Contract Thresholds	Enforcement	Complaint Fee or Cost*	Charges and Sanctions for Non-Compliance
Toronto	Updated every 3 years based on union rate. The City of Toronto Fair Wage Office estimates that its Fair Wage Schedule is approximately 90-95% of the current union total compensation.	All Sectors	No Thresholds	Proactive – by City's Fair Wage Office.	No	15% administration charge on owed wages. Cited on City Web Site 2 nd Violation: may be barred for 2 years
Hamilton	Updated every 3 years based on union rate	All Sectors	\$500,000	Payroll audit required for three years after 1 st offence.	\$5,000	\$5,000 administrative fee. 2 nd Violation: may be barred for a period of time.
Thunder Bay	Last updated 2004 based on union	ICI* only	\$100,000 (may be	Payroll audit required for	\$1,687.50	2 nd Violation: may be barred for a

	Process to Establish Wage Schedules	Sectors	Contract Thresholds	Enforcement	Complaint Fee or Cost*	Charges and Sanctions for Non-Compliance
	rates. Update under consideration.		raised to \$500,000)	three years after 1 st offence.		period of time.
Sudbury	1995 Provincial rates	ICI* only	\$160,000	Payroll audit required for three years after 1 st offence.	Complainant must pay cost of investigation.	2 nd Violation: may be barred for a period of time.
Oshawa	Applies City of Toronto Fair Wage Schedule	ICI* only	\$500,000	Payroll audit required for three years after 1 st offence.	\$5,000	2 nd Violation: may be barred for a period of time.
Clarington	Updated every 3 years based on union rate	ICI* only	\$1,000,000	Payroll audit required for three years after 1 st offence.	\$2,500	2 nd Violation: may be barred for a period of time.

Source: *Feasibility Assessment for a Fair Wage Policy*, Prism Economics & Analysis, Figure Nos 5a & 5b
(*ICI – Industrial, Commercial & Institutional)

Items to be considered in the Development of a Fair Wage Policy

There are a few things for Vaughan to consider if a Fair Wage Policy is developed:

Figure 2: Items to be Considered if Undertaking the Development of a Fair Wage Policy

Topics for Consideration	Potential Options	Potential Implications
Method to establish Fair Wage Schedules	<ul style="list-style-type: none"> Adopt schedules under the <i>Government Contract Wages Act</i> Base on GTA union rates or some proportion of those rates Adopt City of Toronto's Fair Wage Schedules Conduct a survey to determine wages 	Option chosen will impact cost of implementation
Thresholds for applicable projects	<ul style="list-style-type: none"> No threshold Determine applicable threshold i.e. <\$100,000, <\$500,000 	Option chosen will impact the number of projects covered by policy
Sector	<ul style="list-style-type: none"> All sectors Industrial, Commercial, Institutional (ICI) 	Option chosen will impact the number of projects covered by policy
Basis for investigation	<ul style="list-style-type: none"> Complaint-based Proactive 	Option chosen will impact cost of administration
Method to recover administration costs	<ul style="list-style-type: none"> Administrative fee on non-compliant contractors Refundable fee to register complaint, recovered by contractors if found non-compliant 	Option selected will have an impact on the method of funding these investigations

Topics for Consideration	Potential Options	Potential Implications
Administration of the Policy	<ul style="list-style-type: none"> Administered by a City Department with current staffing i.e. Procurement Services Establish a Fair Wage Office Petition the Province to include municipalities in its 	Option chosen will impact cost of administration

Contracted Construction in the City of Vaughan

The Prism Report provides analysis into the number and value of maintenance and new construction contracts from 2014-2016. This analysis could help inform decisions regarding thresholds and sectors to which a Fair Wage Policy would apply.

Over this period, there were 757 awarded contracts at a value of \$210 million.

Figure 3: Number and Value of Maintenance and New Construction, 2014-2016

No. of Projects, 2014, 2015 and 2016						
	Buildings	Linear	Other	Total	Average	Percent
\$0 to \$100,000	63	33	457	553	184	73.1%
\$100,001 to \$500,000	9	29	91	129	43	17.0%
\$500,001 to \$1,000,000	5	5	16	26	9	3.4%
>\$1,000,000	5	19	9	33	11	4.4%
Unspecified	-	3	13	16	5	2.1%
Total	82	89	586	757	252	100.0%

Value of Projects, 2014, 2015 and 2016						
	Buildings	Linear	Other	Total	Average	Percent
\$0 to \$100,000	\$1,934,125	\$1,538,703	\$11,536,295	\$15,009,123	\$5,003,041	7.1%
\$100,001 to \$500,000	\$1,156,072	\$6,883,920	\$18,456,855	\$26,496,847	\$8,832,282	12.6%
\$500,001 to \$1,000,000	\$4,773,175	\$3,095,609	\$10,564,823	\$18,433,607	\$6,144,536	8.8%
>\$1,000,000	\$26,019,329	\$63,224,656	\$61,182,786	\$150,426,771	\$50,142,257	71.5%
Unspecified	n/a	n/a	n/a	n/a	n/a	n/a
Total	\$33,882,701	\$74,742,888	\$101,740,759	\$210,366,348	\$70,122,116	100.0%
Percent of Total	16.1%	35.5%	48.4%	100.0%		

Source: *Feasibility Assessment for a Fair Wage Policy, Prism Economics & Analysis, Figure No. 6*

A Fair Wage Policy with a contract value threshold of \$500,000 or more would result in 80.3% of contracted work qualifying. Per the above, this would equate to 20 contracts.

Limiting the application of a Fair Wage Policy to non-residential building construction, as other municipalities do, would cover 16.1% of contracted construction work. Per the above, there would be no threshold value and 27 contracts would qualify.

The decisions regarding thresholds and sectors to which a Fair Wage Policy would apply determines the number of contracts covered. Layering in the basis for investigation, proactive versus complaint-based, will also have an impact on the number of investigations that could result. This will have an impact on the administrative burden to the City to administer a Fair Wage Policy.

The Prism Report provides five potential Fair Wage Policy Options for the City.

After the conclusion of the stakeholder consultations and independent analysis and research, Prism has presented the City with five Fair Wage Policy options to consider. Figure 4 summarizes these options, tying in Prism's findings as it relates to the Option.

Figure 4: Options for a Fair Wage Policy

Option	Description	Things to Consider
1	Enhancement to Current Practices (Prism report reference: <i>Status Quo</i>)	<ul style="list-style-type: none"> • Modify language in bid documents to reference Provincial Legislation Compliance • Need to develop administration, investigation and enforcement policies • Determine applicable threshold of projects that qualify • Provide clarity on the treatment of independent operators • Implement Certificate of Recognitions (COR) to strengthen health and safety performance • Encourage employers to invest in apprenticeships • Discourage classification of independent operators
2	Adopt the 'Toronto Model'	<ul style="list-style-type: none"> • Methodology has been in place for decades • Proactive audit and inspections promote compliance • Eliminate administrative costs of developing Fair Wage Schedules • Additional staff required • No exemption threshold (all projects qualify)
3	Adopt a Made-in-Vaughan Fair Wage Policy	<ul style="list-style-type: none"> • Elements of a Fair Wage Policy would need to be developed (Chapter 3 of Consultant's report) • Determine how to develop, and then develop, Fair Wage Schedules • Determine thresholds and industries to which it applies • Determine legal obligation of prime contractors • Determine Complaint versus Proactive investigation basis • Cost of Administration
4	If and when the <i>Government Contract Wages Act</i> is implemented, adopt the new Provincial Fair Wage Schedules with a Made-in-Vaughan Administrative Policy; and	<ul style="list-style-type: none"> • Avoid costs of developing Fair Wage schedules • As with Option 3, incur costs to develop an administrative policy • Cost of Administration

Option	Description	Things to Consider
5	If and when the <i>Government Contract Wages Act</i> is implemented, the City of Vaughan could adopt the new Provincial Fair Wage schedules and explore the possibility of arranging with the Provincial Director of Government Contract Wages and the Provincial Director of Employment Standards for administration, investigation and enforcement. The feasibility of this option is uncertain as is the potential cost that the provincial government might require for providing administration, investigation and enforcement services.	<ul style="list-style-type: none"> • Avoid costs of developing Fair Wage schedules • Avoid costs of developing a policy and administering the policy • May result in some fees payable to the Province for administration services • Currently, nothing in play nor any known plans for development at the Provincial level

Source: *Feasibility Assessment for a Fair Wage Policy*, Prism Economics & Analysis

For Options 4 and 5, there is reason to defer a decision on these options as the province has not released its updated and modernized Fair Wage Policy. The present government has not indicated whether it intends to implement, modify or set aside Bill 53 – *Government Contract Wages Act 2018*.

Option 2 considers the Toronto model. The City of Toronto has approximately \$2.8 billion of contracting. The City of Vaughan's annual value of contracting is approximately \$70 million, less than 3% of Toronto's. It is estimated that the number of contractors and sub-contractors completing work in the City of Vaughan is 300-350, 10-12% of the number overseen by Toronto's Fair Wage Office. Based on these statistics, it would be more appropriate for Vaughan to adopt the approach of smaller municipalities. This approach is based on a complaint-based model. A separate office would not be established and there is the option of using external consultants to conduct investigations.

Of the remaining options, 1 and 3, Option 1 would give the City the ability to protect interests of workers engaged through City contracts without the administrative burden of developing the City's own Fair Wage Schedules. Some policies would need to be developed to assist in clarifying roles and responsibilities and procedures in the investigation and enforcement of ensuring contractors pay the prevailing wage. Implementing the Certificate of Recognitions (COR) program in the City should strengthen the health and safety performance of its contractors. The efforts to implement and administer Option 1 are in line with the value and number of construction contracts undertaken within the City.

Financial Impact The costs associated with the implementation and administration of a Fair Wage Policy will depend upon the option chosen. Figure 5 provides a summary of the estimated costs for each Option.

Figure 5: Cost Implications for Proposed Options

Option	Description	Financial Implications
1	Enhancement to Current Practices (Prism report reference: <i>Status Quo</i>)	<ul style="list-style-type: none"> \$24,500 - \$45,500 Policy Development
2	Adopt the 'Toronto Model'	<ul style="list-style-type: none"> \$24,500 - \$45,500 Policy Development \$186,000 annually for a Fair Wage Office
3	Adopt a Made-in-Vaughan Fair Wage Policy	<ul style="list-style-type: none"> \$24,500 - \$45,500 Policy Development \$52,500 - \$157,500 Develop Schedules Operating costs: <ul style="list-style-type: none"> Proactive Model: \$186,000 annually for a Fair Wage Office Complaint-based Model: \$8,750 - \$35,000 annually for administration (offset by recovery via fees)
4	If and when the <i>Government Contract Wages Act</i> is implemented, adopt the new Provincial Fair Wage Schedules with a Made-in-Vaughan Administrative Policy; and	<ul style="list-style-type: none"> \$24,500 - \$45,500 Policy Development
5	If and when the <i>Government Contract Wages Act</i> is implemented, the City of Vaughan could adopt the new Provincial Fair Wage schedules and explore the possibility of arranging with the Provincial Director of Government Contract Wages and the Provincial Director of Employment Standards for administration, investigation and enforcement. The feasibility of this option is uncertain as is the potential cost that the provincial government might require for providing administration, investigation and enforcement services.	<ul style="list-style-type: none"> Annual Fees payable to the Province for administration services

Source: *Feasibility Assessment for a Fair Wage Policy*, Prism Economics & Analysis

Continuing the discussion from the above *Options for a Fair Wage Policy*, Option 1: Enhancement to Current Practices (Prism report reference: *Status Quo*) provides for a financially sustainable solution. There would be one-time initial costs for policy development and COR implementation of upwards of \$45,000. There may be future consulting costs to update these policies, but there is the possibility that these updates could be performed by City. If a complaint-based approach is adopted, the cost of administering the fair wage program could be performed by existing City staff, or by external consultants.

Implications to City Contract Costs if a Fair Wage Policy were Implemented

Prism completed analysis to determine the potential impact a Fair Wage Policy could have on contracts if the prevailing wage is not currently being paid.

Inputs from Statistics Canada and 2011 National Household Survey were used to estimate the labour portion of City contracts.

Figure 6: Estimated Labour Cost of City Contracts

	Average Annual Value of Construction 2014-2016	Trades Labour Percent of Total Cost	Estimated Trades Labour Cost
Buildings (New Construction)	\$10,264,168	23%	\$2,360,759
Linear	\$24,914,296	20%	\$4,982,859
Other	\$33,913,586	35%	\$11,869,755
Repair Construction (Buildings)	\$1,030,066	40%	\$412,026
Total	\$70,122,116		\$19,625,399

Source: *Feasibility Assessment for a Fair Wage Policy*, Prism Economics & Analysis, Figure No 9

The only time there would be an impact to the cost of City contracts is if contractors need to increase wages to the prevailing wage. For every 1 percent increase in wages, the impact is estimated to be \$196,000.

There is no evidence that contractors are paying their workers less than the prevailing wage. During the consultation phase of this initiative, employers stated that market conditions prevent them from paying less than the prevailing wage. If this is correct, a Fair Wage Policy would not affect construction costs.

Broader Regional Impacts/ConsiderationsAs the City continues in its investigation into a Fair Wage Policy for the City and decides next steps, it is important that communication and engagement continues with all stakeholders whose workers are employed on contracts within the City of Vaughan. These discussions would include, and are not limited to, such topics as:

- Consultation on policy development: administration, investigation, enforcement
- Consultation on an education program between the City and stakeholders
- Discussions on the costs to industry, and impact on Vaughan contracts, with implementation of options

The City should have discussions with the Region of York and its municipalities, as well as all neighbouring municipalities, to advise them of the City's intent when it comes to a Fair Wage Policy. For example, for cross-Municipal/Regional projects, such as City of Vaughan and Region of York, will need to be discussed to determine the extent of their inclusion, or exclusion, from the City's Fair Wage Policy.

Staff will continue to monitor what is happening at the Federal and Provincial levels as it relates to their Fair Wage Policy initiatives.

ConclusionThere is limited evidence on the impact of a Fair Wage Policy on health and safety performance, investment in training and apprenticeship, the underground

economy, or preventing downward pressure on wages and working conditions. However, there is reason to believe that a Fair Wage Policy could have some positive effect, although these goals could also be pursued through other policies.ⁱ

A Fair Wage Policy, or form thereof, would provide staff with the means by which to administer, investigate and enforce a fair wage, the prevailing wage, in City contracts. Some decisions are required to help shape this Policy. Decisions such as Fair Wage Schedule development, thresholds for contract inclusion, sectors affected, and type of investigation will impact the costs of implementation and administration.

Should Council adopt to implement a Fair Wage Policy, staff recommend Option 1: Enhancement to Current Practices (Prism report reference: *Status Quo*) be implemented. This would give the City the ability to protect interests of workers engaged through City contracts without the administrative burden of developing the City's own Fair Wage Schedules. Some policies would need to be developed to assist in clarifying roles and responsibilities and procedures in the investigation and enforcement of ensuring contractors pay the prevailing wage. Implementing the Certificate of Recognitions (COR) program in the City should strengthen the health and safety performance of its contractors. The efforts to implement and administer Option 1 are in line with the value and number of construction contracts undertaken within the City.

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