

**EFFECTIVE GOVERNANCE & OVERSIGHT TASK FORCE
OUTSTANDING LIST**

OCTOBER 28, 2020

Meeting / Date	Rpt(Item) / Title	Issue Outstanding/Question	Comments	Date Complete
June 24/20	Rpt 4(2) Outstanding List	<p>Councillor Shefman, Chair, requested that the Members submit questions that are essential to governance.</p> <p>The Internal Auditor advised that he would prepare a report with bench marking options.</p> <p>Fausto Natarelli requested that timelines be prepared.</p>		
June 18/20	Email from K. Kestides	“future item for “Governance of Internal Audit”. This was raised at CoW the other day in conjunction with Kevin Shapiro’s Internal Audit Policy and Charter item. Councillor Carella thought it would be good to have this as an item for EGOTF.”		
June 5/20	Letter to Previous Councillors, Senior Staff	Letter requesting contribution to the EGOTF.	<p>Sent June 18/20 Waiting for comments. Responses received from: Meffe, Racco, Somerville, Caron, Abrams Note: Sept 17/20 no further responses were received.</p>	Complete 08/20 Contributors will be scheduled to attend meetings and provide their comments.
June 5/20	Email from Councillor Carella	Please add to the long-term agenda for EGOTF “why should we have a separate audit committee?”		
May 19/20	RPT 3(1) PRESENTATION ON MUNICIPAL ACT	<p>Q - How does the City’s Lobbyist Registry compare to Toronto and other municipalities? Are we planning on reviewing it? (JR)</p> <p>Q - Should there be a periodical review of Statutory Committees? (FN)</p> <p>Q – Attachment 1 to this document – questions submitted by Fausto Natarelli</p>		

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May 19/20	RPT 3(2) DISCUSSION ON GOVERNANCE AND ADMINISTRATION - REFLECTIONS FROM DR. LEBLANC'S PRESENTATION	Deferred to a future meeting.		
May 19/20		Questions from Fausto Ntarelli	Attachment 1 to this document.	Questions were answered September 2020 and are appended to this document.

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Answers provided September 2020 (1 to 25 answered by Councillor Carella. 26 to 42, answers provided by Wendy Law, Deputy City Manager, Administrative Services and City Solicitor.)

Governance and Oversight (General)

- 1) When was the last time someone had a fundamental look at the function of council, committees and related supports? What were the findings of that effort? Were the recommendations implemented and if not why?

A - 1. "Fundamental looks" at Council functions are reserved to the province as it assign responsibilities. Sometimes it adds more by way of a download, less frequently it uploads some duties. As to how committees are arranged, that has typically been steered the CM of the day or the Clerk (in the case of J Abrams). To date, those colleagues who want a very different structure have been unsuccessful, in the absence of political (i.e., Council) will on the matter.

- 2) Is there an intent to review and comment on the governance structure say once every 5 years?

A - 2. We can comment any time, but in the absence of a groundswell movement to change the governance structure of municipalities, it's really the province's call.

- 3) What's appointment process for City of Vaughan boards and committees?

A - 3. The details of the appointment processes are left to Council. Typically, there is a call for applications. Council reviews the applications and makes selections, with an eye to balancing representation across the wards. Note that some committees are statutory (e.g., Committee of Adjustment), other City-driven, such as this task force. All have either provincially-mandated terms of reference, or locally composed ToRs.

- 4) What is the current state or character of the relationship between Council and the Administration and what efforts are made to ensure effective collaboration?

A - 4. This is THE governance issue. We don't run the operation, the CM does, and we oversee it all, trying to stay out of the weeds. To do our job, we need a constant flow of information that paints a clear picture of what's going on. Sometimes we are spared unpleasant details, sometimes we have to find things out on our own. But mostly we get good and accurate information.

- 5) Are respective roles and responsibilities generally well known and understood? Is there a clear appreciation of the political-administration dichotomy?

A - 5. Again, this is a constant tension within the arrangement, and key points must be made and remade all the time, as everything is in flux.

- 6) What approaches are used to arrive at a determination of the *public interest*, to help guide the City's decisions and actions in particular circumstances? Are there general guiding principles used?

A -6. Jeremy Bentham probably defined it best as the greatest good for the greatest number. The problem is that's presumes altruism on the part of most of the public. I suspect the public interest is

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best served when all individual interests are held in check relative to every other interest. It's a balancing of interests that creates the public interest. (Cf the foolishness of speaking about public opinion. All I ever see is public opinions!!!!

- 7) How does Council know that the discretion that is often conferred on administration officials is being reasonably exercised?

A - 7. We rely on our constituents and their readiness to bring issues to our attention to know whether staff's discretion is being unreasonably exercised.

- 8) Is there a lessons-learned culture within the City? If so, what might be the proof-points?

A - 8. I hope so. Next week we have the first real meeting of a new committee that will look at post-pandemic issues. My first question is and has been for some time: what are we learning from this experience that we want to continue afterwards. What of the old ways do we need to scrap?

Presentation: *Best Organizational Governance Practices – Dr. LeBlanc*

- 13) How would the City determine what is in the best interest “of the organization as a whole”?

A - That is a perennial and, indeed, constant question and would begin with a staff recommendation on some issue (since staff, at present, sets the agenda) and would be tempered by the views of various members of Council and ultimately determined by a vote, if it came to that. I think it safe to say that, ideally, every vote by Council expresses the majority’s view as to what is in the best interests of the organization.

- 14) What has been the City’s experience with COI and how has it modified its practices in response to these developments?

A - As to conflicts of interest, I can only recall one instance in which a resident launched a court action against a member of Vaughan council---which was the appropriate means of dealing with such matters at the municipal level, according to the Municipal Conflict of Interest Act of that time. The action failed and the council member awarded costs. Despite some minor changes, that regime is still in place, as mandated by the provincial government. As is clear from Dr. LeBlanc’s presentation, how such conflicts of interest are dealt with in the corporate world (i.e., in public, private, and not for profit corporations) is left to corporate boards to decide, to the extent that these matters are not covered in applicable legislation.

- 15) What is the City’s approach to the determination, establishment and maintenance of ‘Duty of Care’?

A - That’s a big topic. Most commonly, the issue turns on whether the city cleared snow from a street or sidewalk soon enough to prevent a resident from injuring themselves when slipping on ice. These cases are the most common when it comes to duty of care, frequent in winter obviously, and dealt with by our insurer. Staff training is clearly important. But insurance costs rise every year.

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16) What's the reaction to suggestions on pg 17?

A - Again, these are suggestions useful to boards other than municipal councils whose procedures are set in legislation. By the way, the stated first priority of municipals councils, in law, is to protect the health and safety of the citizenry.

17) How does the City currently try to achieve the considerations on pg 19?

A - We've been moving in this direction over the last number of years, with whistleblower policies and opportunities, staff surveys, an internal auditor who reports directly to Council. Being members of the same local community, we also have many opportunities to hear complaints from constituents, even those who work for the city!

18) What would the City's answers be to the questions on pg 25?

A - I saw no questions on page 25, but again, the context of the cartoon is definitely not municipal. In fact, we have a slew of Term of Council Strategic Priorities---what we want to see in key areas over the four years we are in office and we get regular updates. Strategic planning is definitely not a "last ten minutes of the minute" activity.

19) What's the City's approach to ensuring strategic focus and achievement of key outcomes (as per suggestions on pgs 28 & 29?)

A - Again, we do a lot of this sort of stuff (usually termed SWOT analyses) as part of the strategic planning process, as do a lot of different sorts of corporations, but it is clear that municipal services in Canada are not under threat from new private sector initiatives (cab companies that don't own cabs). However, I have heard of one municipality somewhere in the US where the only full time permanent employees are the city manager and his assistant, because every typical municipal service is contracted-out, including the office that oversees contracts!

20) How does the City contend with disrupters and disruption?

A - Not sure what is meant by disrupters, but I think it fair to say that those who challenge incumbent members of Council qualify as disrupters, and the pandemic is the best example of disruption I can think of. The former are dealt with in elections (and sometimes prove to be successful, as I did the third time I ran) and the latter requires adaption and patience and following the directions of those either in the know (public health) or with superior power (the province).

21) How does the City ensure that it is not saddled with old think and traditional high-cost administrative models and practices? What about 'nudging' or 'freak-economic' evidence to bring about desired constituent behaviours with few unintended consequences?

A - As Council committed years ago to tax increases under 3% (and it looks like 0% is coming in 2021), high cost traditional practices are very few if not non-existent, and the pandemic has pointed

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the way to other means of cost savings. It's a perennial focus because what citizens want us to do is always more and more for less and less taxes.

22) How does the City's performance monitoring process compare to the "Strategic Value Creation" cited on pg 32?

A - Quarterly financial reports along with regular updates on Term of Council Strategic Priorities (all part of the public record) cite all variances and the reasons for same. Also, anyone, including any citizen, can attend meeting where these matters are discussed and ask any questions.

23) How does Council strive to leverage competencies or traits of its members to either lead or contribute to sub-committees?

A - During this term, the creation of a number of task forces is the opportunity for such leveraging. I am chairing two such task forces, because diversity and inclusion and effective governance and oversight have always been important to me. I've been on the board of every sort of non-profit group over my career----arts, ethnic community, sports, health, social service, etc.---so I have seen a lot of governance in action and have even presented papers on the subject at sector conferences. Diversity and inclusion is more important than ever given the fact that certain racial and ethnic groups have historically been and are currently the victims of prejudice and bigotry which is not acceptable for any reason.

24) What does the City's overall committee and decision-making structure look like and how does it compare to considerations on pg 51? What is the flow and character of supporting information?

A - I don't disagree with anything on that page, once translated into the municipal framework. They are basic principles of good governance. One thing to be appreciated is that the members of a municipal council are very much in a spotlight all the time (the scope of which is determined by the size of the municipality), a level of scrutiny much more intense than that focused on any member of any private, public or not for profit board I've ever been on. If any of us step too far out of line, someone is going to make an issue of it, and very often the issue raiser winds up running against the offending member of council at the next election.

25) How is City accounting for risk (both financial and non-financial)?

A -As the business of any government is the business of those it governs, we know there is a price to pay for any action in respect of which some degree of risk analysis has been conducted. If when I depart this job and this life, and if my remains are subject to an autopsy for any reason, I am sure the word LIABILITY will be found etched into my brain. It's the one word I have heard mentioned more than any other in the twenty years I have been at this.

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Presentation: *Municipal Act and Governance – City of Vaughan*

26) What processes and procedures does Council have for ensuring that the City's by-laws, policies, practices, and activities remain in compliance with applicable *Governing Legislation*?

- This is one of the critical functions of the Administration – to stay apprised of changing legislation and to propose programs and initiatives to council that would adapt to these changes. Such proposed changes will be done through council reports for council approval, unless the changes are administrative in nature and/or delegation of authority has been granted by council. For example, with the provincial orders that are enacted for COVID 19, enforcement activities of staff may change in order to implement and enforce those orders. That does not require council approval as enforcement is administrative in nature, and delegations are in place. With the changes to the Planning Act and Community Benefits Charges, however, the Administration will review the legislation, propose recommendations after conducting appropriate studies and consultation, for Council's consideration.

27) How does the City ensure that its authorities granted as "natural persons" are not abused? Is there a process for example to review and react to pertinent case law developments and if so, what does that process look like?

- Natural persons powers are not specific powers. It does not detract from the fundamental legal principle that the City is a creature of statute and we derive our powers from legislation. Natural persons powers would allow the execution of legal instruments for example, but those legal instruments must be in line with existing legislative framework and jurisdiction.
- Similar to all powers granted to a municipality, it is the role of the Administration to advise Council and to make recommendations, and for Council to approve or reject or modify.
- The role of Legal Services is to provide legal advice and support to Council and Administration so that the City would operate within the legal framework.

28) How does Council delegate authority to administration staff and is there a periodic review to ensure that delegation is being exercised in the public interest?

- Council delegates authority by bylaw to staff and may require regular reporting as appropriate. Most delegations are specific delegations however. For example, staff may bring a report to council seeking authority to enter into an agreement with a third party to deliver a service. If council approves, then council delegates the authority to staff to execute the appropriate agreements.

29) Same for delegation to local boards, committees, municipal service boards, municipal services corporations etc?

- Yes, Council can only delegate through bylaw and the delegation would include reporting requirements.

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30) How does Council keep track of the implementation of its direction? Is there a secretariat within the City Manager's Office that compiles reports and/or KPIs? As per Section 227 of the Municipal Act and pg 16 of the presentation?

- Council directions are provided by bylaw and kept by the Clerk's office. It is up to the staff delegated with the authority to execute Council's direction. At the top of the Administration is the CAO, who supervises through senior management, to ensure Council's directions are implemented.

31) What "other duties" are assigned to the CAO (City Manager) and how is that process managed? Are the duties on-going, or time-limited or both?

- The CAO is in charge of the Administration, and to ensure that Council's direction is executed. The City Manager's Bylaw specifies the delegation given to the City Manager (attached).

32) Are there specific arrangements and protocols in place that pertain to the authority of Statutory Officers? If so, what are they?

- They are part of the Administration so all policies and procedures in place for staff would apply to them. In addition, they are required to comply with the legislative powers and requirements granted/imposed on them by the specific statutes applicable to them.

33) What is Council's relationship with its various Accountability Officers and is it responsive to their reports and findings? How so? Are the interactions post-facto only?

- At the City, Suzanne Craig is the Integrity Commissioner and Lobbyist Registrar. The City has not created other accountability offices.
- Members of Council can seek advice from the Integrity Commissioner at any time as they wish on matters relating to the Council's Code of Conduct and their obligations under the *Municipal Conflict of Interest Act*.
- The Integrity Commissioner may also conduct education sessions for members of council, in addition to her role to investigate complaints and report to council of same.
- It may be of interest to review the most recent report from the Integrity Commissioner and Lobbyist Registrar to Council dated _____ (attached).

34) Does the City have a preferred or ideal Bylaw Development Process that clearly sets out expectations for quality, thoroughness, due diligence, comprehensiveness, adherence/compliance to various internal strategic objectives, mandatory policies, operational requirements?

- Legal Services approves all bylaws as to form prior to them being presented to Council for adoption to ensure they meet legal requirements as a legislative instrument.
- Each department works with Legal Services as appropriate to develop and draft bylaws but the business unit would be responsible for conducting all necessary research, consult with appropriate stakeholders, and present the recommended approach to Council for their consideration, taking into account all necessary and appropriate considerations.

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- 35) How does Council know that it is effective and efficient in regards to its role as per page 13 of the presentation and Section 224 of the Municipal Act?
- Council would rely on reports and professional advice from the Administration, external consultants (e.g. external auditor).
 - Practically speaking, there is also the media, increasing public participation and scrutiny, and ultimately the polls every 4 years.
- 36) Are the “Other governing docs” cited on pg 17 available/accessible? If so how?
- Included
 - Please note that for Delegation of Authority, most of the direction authorizing staff to execute Council’s will are contained in each report and applicable bylaws – they are individual matter based. There are a few standing Delegation of Authority Bylaws, one of which is 144-2018 as attached.
- 37) How does Council know that delegation of authority as indicated on pg 18 is unfolding as intended? What is the monitoring or feedback mechanism? Are policy/procedure/practice attestations used in the City?
- Please see responses above (Q26-29)
- 38) Transparency is key to accountability. How does Council ensure it strives for maximum transparency? What principles or practices does it strive to follow? How would the City tell a compelling story that it is a leader in regards to the obligations/practices on page 21?
- Some examples:
- There are various statutory obligations that the City must follow to achieve transparency. For example, there are annual reporting requirements from the Treasurer, the Integrity Commissioner.
 - Council requests reports on matters as they arise and those reports are in the public domain unless they fall within the limited scope of closed meeting exemptions.
 - Council deliberations to pursue the business of the municipalities are in the public domain, as closed meetings are only permitted under certain exemptions.
 - City records are subject to freedom of information requests.
- 39) What has the City’s performance been vis-à-vis the complaints submitted to the Provincial Ombudsman (pg 21)? Assuming they have jurisdiction since a Municipal Ombudsman has not be established in Vaughan?
- Not aware of any
- 40) What has the City’s experience been with its Code of Conduct (pg 22)? They can be well-meaning but challenging to implement given the many situation specific considerations that may arise.
- Please refer to the Integrity Commissioner’s report.

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41) What might be the legal tests for the examples of Bad Faith cited on pg 31? Wouldn't unethical or unprofessional conduct also constitute Bad Faith? How does one prove "improper motive"?

- That would be a factual finding to be conducted by a judge in the case of litigation, on a case by case basis. Unethical or unprofessional conduct may or may not be, as bad faith usually involves intent or what amounts to gross negligence. So errors in judgement may not necessarily trigger a successful bad faith argument.

42) How does the City know that it is achieving the desired outcomes of the Governance elements cited on pg 37?

- This is a matter of continuous improvement and it requires consideration by both Council and Administration on the most optimal way to implement these elements.
- Overall, Justice Bellamy's report is still very relevant to municipal governance even though it was written a number of years ago. As noted in the presentation, it is a worthwhile read to understand more the roles of Council and Administration, as well as other considerations as raised in these questions.