

COMMUNICATION – C8
ITEM 5
Committee of the Whole (Closed Session)
May 12, 2021

From: [Simone Barb](#)
To: [Carella, Tony](#); [Coles, Todd](#)
Cc: [Richard Lorello](#); [Robert A. Kenedy](#); [Sustainable Vaughan](#); [IRENE FORD](#); [Keep Vaughan Green](#); [Andre Willi](#); [Kathryn Angus](#); [Bob Moroz](#); [Iafrate, Marilyn](#); [DeFrancesca, Rosanna](#); [Racco, Sandra](#); [Shefman, Alan](#); [Rosati, Gino](#); [Jackson, Linda](#); [Ferri, Mario](#); [Noor Javed](#); [Celeste Dugas. MOE](#); [Phyllis Barbieri](#); [MATT MCNEICE](#); [Kristen Sones](#); [Andrea Brown](#); [Ryan Stern](#); [Suppa, Frank](#)
Subject: [External] Re: 5550 Langstaff Rd.,
Date: Thursday, April 22, 2021 9:43:11 AM
Attachments: [feb032021.pdf](#)
[ATT00001.htm](#)

Todd,

My Feb 03/2021 communication to the City of Vaughan, I would like it as well to be added to the Special Committee meeting as this communication was not addressed in it order of questions be asked or clarifications being requested, or understandings being seek out.

As well page 3 of the communication regarding funding and council resolutions. At the special committee meeting I am requesting, through what council resolutions and when did the City promise financing and guarantor to the developer without notifying the public or seeking public consultation for the use of tax payers money.

I'm requesting staff to review all submitted communications and prepare responses for all areas of questions and concerns written in each submitted communication.

I Thank you for your cooperation in advance and look forward to a long over due explanation of all unaddressed, unanswered, communications to the attention of the City of Vaughan, council, staff, and By-law department.

Mr. Christian Guerette,

February 3, 2021

I would like to thank you for your communication received. Responding to many community communications from January 22/2021 emails.

However, there are many corrections of your communications that need to be corrected for the record as your updates are inaccurate and anyone that has briefed you on this ongoing matter has devaluing the adverse affects and has violated what our right to quality of life is measured that has caused an unmeasurable level of ongoing harm, damages, etc..... The City of Vaughan has had a continuous active role in the ongoing activities, and in the knowledge and review of reports and information and approval process of 5550 Langstaff to take a very back seat currently with in my opinion your water down response trying to make every effort to remove liability off the position of the City of Vaughan. Is very highly offence.

1) (City of Vaughan Respons)

“Any issues relating to the Environmental Protection Act, environmental approvals, receiving sites for the excavated materials, qualified persons, and the parties to whom Provincial Officer’s Orders are addressed, should be addressed to the Ministry of the Environment, Conservation and Parks, as they are the entity responsible for managing those issues.”

I will agree with you that environmental approvals, Provincial Officer Orders etc. are mandated by The MEPC whom Govern the Environmental Protection Act. HOWEVER, through policy passed by are municipal government that states the municipal government has a responsibility to uphold and govern in accordance with the EPA and even according to the Ministry of Environment in an email from January 26/2021 @2:46pm stated the following and I quote

“The City can however enforce their own policies and procedures which may reference requirements set out in the EPA (as noted in the attached document you provided).”

The document that was referred to was the VOP policy.

The City of Vaughan has only ever taken the position that its not within their jurisdiction and have never enforced policy and procedures because of said position.

Please refer to the Jan 22/2021 email where the issue is not provincial orders and environmental approvals.

The Communication is talking about the Hauling issues that has arise.

Hauling issues are a shared jurisdiction with the Ministry of Environment and the City of Vaughan.

As the MEPC are required to be notified where the waste is be hauled to and with which transport company. As ECA (environmental compliances are required before hauling can commence).

However, The City of Vaughan also holds jurisdiction in this area as it is the City of Vaughan handing out road cut permits, as well it is the City of Vaughan that governs are municipal roadways and the 0.3-meter reserve in front of the access point on Campania court. Not the MEPC.

According to the Policy endorsed by council there are a few key points I like to remind the City of Vaughan.

Section 1.1 PURPOSE:

" This document provides an update to the City of Vaughan's POLICY and PROCEDURES for dealing with Contaminated or Potentially Contaminated Sites that was originally adopted by Council on May 14,2001. The POLICY'S intent is to ensure contaminated or potentially contaminated sites within the CITY OF VAUGHAN are addressed accordingly to Provincial statutes and regulations. York Region standards, and best management practices to permit development or redevelopment, and to ensure that lands being conveyed to the city meet the applicable environmental standards."

Section 2.0 GOVERNING POLICIES, PLANS, and LEGISLATIVE BACKGROUND

"The following provides a summary of the applicable **provincial and municipal** policies, plans, and legislation which has guided the development of the City's policy on dealing with brownfields and contaminated or potentially contaminated sites.

Page 2-11 illustrates the City of Vaughan's role and responsibility to maintain the highest level of management, transparency, integrity in accordance with legislated Framework of the EPA policy and procedures are addressed accordingly to Provincial statutes and regulations. If you reflect to prior responses from the City of Vaughan. The City of Vaughan has always taken the position that its not within their jurisdiction. therefore, not applying policies and procedures to reduce the exposure of all adverse affects we were forced to be subjected to as Provincial statutes Regulations were not being complied with as the History of Provincial Orders dated back to 2013 with the City of Vaughan always being in a position of this knowledge and more. As if you also reflect to the public record there are ZERO technical reports or staff reports communicating these issues on the public record.

Referencing page 10 of the policy

Page 10 is a City of Vaughan Environmental Site Contaminated Review Flow Chart.

If each step was followed according to this formatted flow chart then Huston, we have major issues with the integrity of the management of this site. Due to policy procedure and provincial legislated framework endorsed by this very sitting elective body that hold elective positions within our Municipal government, especially our Ward 2 Councillor Tony Carella, and Regional Councillors and our Mayor of the City of Vaughan.

AS WELL

let us refer to **Page 14: City of Vaughan RAP Review Flow Chart**

Huston, we have an even bigger problem. When reviewing this flow chart from page 14. It speaks to the required RAP (remedial action plan). Referencing back to Jennifer Kozaks Provincial Officer Order. Within the Order there was communication stated for the record that a business meeting was held at the City of Vaughan, with all parties present including legal counsel for all governing parties.

Mr. Gentile advised all parties at the meeting that the RAP (Remedial Action Plan) for phase 2 was not being followed.

So please explain how policy and procedures were being applied to the governance of the site if the RAP was not being followed or the site was not being managed by a Qualified Person?

Definition of Qualified person is on Page 21 of VOP policy.

Further review of these flow charts both on page 10 and 14 there are a lot of red flags that pop up. Questioning the process, of policy, and procedures being followed in the order they are required to be followed. As required steps were missed or overlooked or skipped in the accordance of the EPA as the City of Vaughan DTE department of the City of Vaughan should have been aware of this in the review process as they were issuing out their approvals. As they were not acting in accordance with the EPA. Of section 6 of the policy and other areas of VOP policy.

According to Page 10 there should be no registered drafted plan registered to the City of Vaughan until all the above is adhered to. But in an email retained in an FOI package there is an email from 2015 Where the City of Vaughan was going to enter into a model home agreement and a subdivision agreement without the site having an RSC to its title or without the remedial operations not being concluded. In fact, there is no public record that speaks to any of the ongoing issues of the site let alone any of the required technical reports.

Or let us reference back to when the City of Vaughan changed the Provincial requirements to lift the Hold symbol off the property to guarantee the developer financing when the Municipality does not have that authority to do so. Or the that council did not consult the public for being a guarantor on the Developers financing as the developer himself on public record stated that through council resolution if council does not help him it will go against there promise they gave the develop again without consulting the public as the City of Vaughan is a public entity that functions on public funding through property tax etc.... that without consent of the public Vaughan council can not be funding developers with our money behind close doors. From 2012-2018 the developer has received \$78 million from charter banks without having an RSC certified by the MEPC.

As records show the municipality also assisted and supported the developer on installing roads, sanitary and sewer systems on the phase 2 lands knowing that the developer had not completed the remedial operations, or obtained the required RSC needed to certify the lands for a more sensitive land use of development. There is also an email from the TRCA to the City of Vaughan in 2013–2014-time frame when the roads infrastructure was being installed. Stating that there is still a large mountain of waste located across the hydro One easement. City response to the TRCA was that they were aware and are supporting the developer of the installation of roads to haul out the waste.

Yet there was no infrastructure needed to stockpile the waste from phase 1 to phase 2. As the waste sat across the hydro One easement under the hydro one wires from 2009 to 2016 with no municipal permits or an encroachment agreement entered by the developer with Hydro One as the City of Vaughan was very aware of this as it is the DTE department of the City of Vaughan that facilitates said required agreements.

As the developer also went on public record and lied about a stop work order put on title by the Ministry in that time frame of 2013-2014 at the same time the City of Vaughan was supporting the installation of services and infrastructure to the phase 2 lands.

Even after referencing a letter written by York Region stating that the developer can only move forward with the above if there is an RSC on title. Yet both Municipal staff and Developer ignoring that communication and moved forward even without an ECA approval issued out by the Ministry of Environment as all these communications are enclosed in the received FOI package of the MEPC.

To reference to the July 16/2016 meeting of the whole. That meeting was conducted in an inappropriate manner on the basis that when the community arrived for the public committee meeting, we were under the impression that we were going to speak to many ongoing unaddressed community issues.

Instead, the community was blind sided and almost pushed off the public agenda because of a backdoor deal made between the developer and staff and Ward 2 councillor Tony Carella without public consultation.

A deal between the developer and staff was being hammered out 48 hours before the meeting was to execute a road cut permit without consultation from the community.

It was Ward 1 Councillor that expressed concern and addressed the City Clerk about procedure of removing the community voice from the record. As we were not notified a head of time about what the developer and staff were in communications about, we were still allowed to speak at the public meeting.

But the course of conversation had changed as it was now to fight for our rights against the lack of consultation of the Road Cut Permit being forced on this community. Our Voices were being ignored and the right to public consultation was being taken away from us as these back door deals were taking place while the developer was suing the City and having a legal matter before the courts.

Which I might add canceled another scheduled community meeting that was supposed to happen on December 10/2015 2 days after the City of Vaughan was served with a statement of Claim in December 8/2015 from the proponent of 5550 Langstaff.

But it was ironic that 1 hour before attending the December 8/2015 community meeting regarding the other development of infinite Homes on Block 120. I received a phone call from executive assistant to the Mayor. That our Formal request to meet and sit with the Mayor to discuss ongoing unaddressed issues was going to be contingent on the outcome of the community meetings.

But never mentioned in that phone call that, that very Morning of December 8/2015 the City had been served with a statement of Claim and because of that claim had no intention of speaking with the community in the formal meeting request we had issued out to the Mayor of the City of Vaughan.

As the City of Vaughan has always take the position that community concerns could not be spoken to with the community due to the litigations matters before the court. Never Stopped the City of Vaughan from discontinuing their business meetings with the developer or progressing the development forward.

Because of this claim the last 5 plus years the City of Vaughan has never included the public in the process.

The public was removed from the public process, our voices were muted, our public request for a working task force was denied without explanation.

Our municipal government failed to support the community through the adverse affects we were and still are being subjected to.

In the same period both the Ministry and the City of Vaughan were in the position of knowledge that the Developer did not have an ECA to conduct any remedial operations on the Site as they were withholding and supressing public information that sensitive receptors were identified through environmental reports written by Mr. Gentile's consultant. This was never expressed through any public committee hearing. I found out on my conducting my own research that identified sensitive receptor were identified and that 12 Campania court was receptor #1 and that a minimum 205-meter distance was to be maintained from the remediation operation to 12 Campania court in accordance with the ECA that Mr. Gentile failed to comply with in accordance with the EPA.

2) (The City of Vaughan Response Jan 29/2021)

"The March 8, 2017 order of Justice Cavanagh held that, pursuant to the development agreement, the developer can access the Phase 2 Lands via Campania Court only to move equipment (to be used to remediate, service and maintain the Phase 2 lands) on and off the lands if the vehicles cannot maneuver safely through Phase 1. This does not preclude the City from entering into an arrangement with the developer which allows for access to Vaughan roadways for the hauling of the excavated materials."

(Simone's Response)

I find it very ironic that you reference this particular paragraph of the order.

When this was not the argument from the community.

When the City of Vaughan finally made the community aware after the fact regarding the access point proceeding to court. The Community realized why you held on to the information as long as you did before informing the residents.

The appeal process was past, and the arguments presented to the judge was not the full story or all accurate events of information leading up to the matter of access.

The City of Vaughan once again failed to reach out to the community to provide consultation to this matter.

Page 2 paragraph 5 is what argument has been regarding not the response you have provided.

I find your response is evading the actual problem and is just another way to avoid addressing what was and was not allowed according to the order.

According to the development agreement the indemnity clauses precludes the developer from ever suing the City of Vaughan. Yet the developer served the City of Vaughan with a claim and the City of Vaughan has been hiding behind this claim the last 5 years rather than striking it as per said development agreement. As well there has been no movement of said claim as said claim sat dormant for 5 years. In my opinion was used as tool rather than respecting the Rule of law.

Also going back to when this development agreement was first developed the community was not consulted then regarding that Campania court was going to be listed as an access route from the site.

Mr. Gentile should have been required to maintain phase 1 access through the course of operations but with eyes wide open and policy and procedures not being followed the developer intentionally reduced his access from phase 1 pushing the City of Vaughan in a position to force access through Campania court.

Please let's all be reminded that when this order was issued in 2017. May of 2017 the developer tried to haul out of the site against the court order and when YRP were called to the site because of the breach of order on the developer's part.

The hauling was halted and within 2 days all machines were removed from the site as the site after that in 2017 was shut down until 2018.

The developer in 2017 days after commencing operations proceeded to inform the YRP officer that there was new language that permits him to haul out of the site through Campania court.

The Officer asked the developer to produce the new order that updates the language allowing him to haul out of the site. The developer could not produce this new order he was speaking about as it did not exist.

As Mr. Andrew Pearce Confirmed that day to the YRP Officers that there is no new language to the current order. As the Order stands in the form it was written at the time by Justice Cavanagh.

Another letter in 2018 stated the same from Andrew Pearce. That hauling still was prohibited from Campania access point. So please explain what changed in 2019 because the matter was never set down for trial.

Let us also be reminded that while in 2018 when Mr. Gentile still did not have the required ECA to perform any remedial activities on the site and was required to keep a minimum 205 meters away from all identified sensitive receptors. Did not comply to these requirements because as the

Ministry and the City of Vaughan were in a position of knowledge that Mr. Gentile of 1668137 Ontario Inc and or 1668135 Ontario Inc failed to apply for an amendment or an appeal.

As this information came out before the Courts on Environmental charges that were being heard in the New Market court. As usual this information was suppressed from the Community as It would have been our Local Governments Duty of Care to inform the community through public consultation of above said information and as well to have enforced Municipal bylaws that would have protected this community but also to govern according to Policy that clearly outlines the Regulations and statues that need to be adhered to maintain the accordance of the EPA in the operations of 5550 Langstaff site and safety of the surrounding community residents that have and still are being adversely affected.

As our Local government is the closes branch of government that governs the safety of their community residents. It is the local government that has the responsibility for upholding the highest level of duty of care to all residents being adversely affected by this ongoing matter, which after a long road of doors closing, refusing of public consultation, and suppressed information or not upholding policy and procedures within City of Vaughan Official Plan Policy.

It is the City of Vaughan that has not upheld their Oath of public office and elective duties, that has allowed this community to be adversely affected with eyes wide open failing to provide a duty of care and a safe community to live a quality of life.

Even requesting formal meetings with our council appointed integrity commissioner have been ignored and or dismissed without addressing our ongoing concerns that involve our elective officials that have failed to uphold their elective duties to their constituents causing adversely affected damages.

3) (City of Vaughan Response)

“City inspectors address all calls from residents as appropriate. City of Vaughan By-law officers have attended at 5500 Langstaff Road on numerous occasions. We are unaware of any instance where any representative of the City By-Law Department instructed the York Regional Police (YRP) to “take no action”. It should be noted that the mandate of the YRP would not allow them to defer to City staff on a matter requiring police intervention.”

(Simone's Response)

I would like to address that we have multiple Municipal bylaws that have failed to be enforced. Property Standards 231-2011, Nuisance bylaw 195-2000, 170-2004, 100-2020, 106-2020, Debris bylaw 103-2020, Standing water bylaw 143-2003, Tree Protection Bylaw 052-2018, Fill dumping bylaw 189-96, 44-2004, 265-2006, 7-2017, 164-2019, Site Plan Control bylaw, 123-2013, 095-2020, 149-2020, as there are many more bylaws that can be questioned of lack of enforcement.

As well City inspectors that has attended this site of 5550 Langstaff on multiple occasions were aware of many issues and seat back with eyes wide open and did nothing to stop, enforce, or correct the unpermitted actions of the developer.

Examples are June 3/2018 municipal inspector being advised by the proponent himself he was going to stockpile waste next to the “Barbieri's” home and took no action for over 2.5 years and seat back and watched him stockpile waste next to my house knowing the City of Vaughan did

not issue out municipal permits to do so. Which was also a violation to Bylaw 189-96. The City receiving correspondence regarding this matter and took no action.

November 6/2020 Municipal inspector was advised about the hauling issues from the Ministry of Environment officer at the site of 5550 Langstaff and took no action. Bylaw was call and they took no action.

November 17/2020 Municipal service inspector was advised of the ongoing issues and still took no action. Bylaw was called and bylaw still took no action.

December 19/2020 the City was advised again regarding the hauling. Bylaw was called to come out and both the City of Vaughan and bylaw took no action. Then the City of Vaughan sent an email indicating there was no violation to provincial regulations that is why the city did not act to enforce.

In 2018 when the screener arrived at the site. Both the City of Vaughan and the Ministry were both not notified of the operations commencing. Rather then enforcing Provincial statues according to policy and procedures of the VOP and being aware that the developer could not haul waste off site and or have an approved ECA to conduct any remedial operations on the site of 5550 Langstaff.

The City of Vaughan conducted a business meeting with Mr. Gentile and contractors to finish the west leg of roadways and sewer and sanitary work on a site that had no approvals to do so in accordance with the ECA process. The only reason why the City of Vaughan did not enforce any municipal bylaws or contravention to bylaws, or the permit process was because the City of Vaughan was supporting Mr. Gentile's unpermitted actions to stockpile waste next to 12 Campania court and the rest of phase 2 property which adversely affect us and changed the grading of our property causing pooling to occur for approximately 2.5 years and having unidentified waste piled next to our home for 2.5 years but also to advance his development at any risk or liabilities caused by the premeditated negligent actions of the remedial operations that was conducted by Mr. Gentile and under the knowledge of the City of Vaughan and not by a qualified person.

There are many more examples of response to question 3 of your response provided but I will leave you with one last example in 2018 on a Saturday the YRP was called out to the community because of hauling waste issues off the site. When the YRP arrived at our residence, we informed him of the issue. The YRP officer then asked if we were able to contact the author of the City letter supporting the court order. Which was Andrew Pearce. I had Mr. Pearce cell phone number and contacted him. Once we were able to make connection with Mr. Pearce. The Officer asked if he could proceed outside with the call. Our home has audio surveillance and picked up the call from Mr. Pearce and the YRP officer. In that call the YRP officer was ready to cease the access point and said to Mr. Pearce provide me direction to stop the hauling and I will act. Rather Mr. Pearce told the YRP officer to take no action and just let it continue. Allowing the developer to breach the court order of hauling waste.

4) (City of Vaughan's response)

"Initial public consultation took place in a public hearing format on October 16, 2012. The matter was also before the Committee of the Whole on June 18, 2013, and a Special Committee of the Whole on July 16, 2015. There were additionally public meetings on February 4, 2016 and

February 6, 2017, involving the Ministry of the Environment. In addition to the foregoing, Vaughan has issued multiple communication updates to area residents on the status of matters at the development site, the most recent being on or around November 11th, 2020.”

(Simone’s Response)

Mr. Guerette, as you have listed all these dates of so-called consultation with the community. I will have to disagree with you completely. As I already discussed earlier in this email that July 16/2015 meeting was to expose a backdoor deal without public consultation. Feb 4/2016 was with the Ministry discussing results from surface samples conducted on July 26/2015 by the Ministry.

The Feb 6/2017 hosted by Mr. DelDuca had no city representative there to address are concerns.

After reviewing video recording from Feb 6/2017 Mr. DelDuca held a meeting with no city representative present and took the position of no comment when it came to city related questions. Therefore, we could not speak to any related outstanding issues and most definitely no discussions of development applications or proposed applications were discussed or even mentioned.

If you look at the City of Vaughan extracts on the City of Vaughan website, it can verify that the meeting of June 18/2013 did not take place as the minutes of the meeting is completely blank even on the City website itself.

The meeting from October 16/2012 was regarding community issues of the activities of the site as at that point the community was not aware of the required remediations that were occurring on the site as we still were unaware of what the sites history was because we were never consulted regarding the history of the property. dust issues were also spoken of that were never addressed and the steel barrier that Mr. Gentile removed from the end of Campania court without public consultation to informing us why it was being removed and then placed at the bottom of my property until 2016. None of the above listed meetings was development applications, or proposed development, or remedial activities discussed with this community.

5) (City of Vaughan Response)

“A ‘Remedial Action Plan’ is a requirement identified in the City’s ‘Contaminated Sites Policy’. It can be required further to a Phase 2 Environmental Site Assessment (ESA).”

(Simone’s response)

Remedial Action Plan was required as Phase 2 ESA was required for the site. According to policy and the Ministry of Environment the RAP was a City of Vaughan requirement. As it was clearly stated in Jennifer Kozak’s Provincial order that a business meeting was conducted, and Mr. Gentile informed all parties plus legal for all parties that the RAP was not being followed.

Therefore, how was the City of Vaughan’s policy and procedures of the flow chart being followed and how was the H symbol removed off the site to guarantee the developer financing of \$78 million between 2012-2018 without an RSC on title.

Please refer to page 8 of the Policy section 6.0 for review and please explain if this process as others were not upheld how did the development progress forward?

As well please indicate from page 8 section 6.0 when was the public hearing scheduled for the ESA to be spoken to and the applications for Official Plan and Zoning bylaws as well as the RAP report????

Also please refer to page 21 of the policy as it provides a City of Vaughan break down of what a Qualified person is defined as and a Proponent is defined as to City of Vaughan and Ministry of Environments in accordance with EPA definition.

Can you please tell me where Mr. Gentile follows into these definitions as he conducted his own remediation of the property without ECA's that the Ministry and City of Vaughan were both aware of and suppressed that information for years from the residents as we were being adversely affected by the actions of an unapproved remediation that was as well under Provincial Order for years and being forced onto this community causing harm and damages that were being ignored and dismissed by the City of Vaughan.

At this point I am encouraging that the City of Vaughan to please review your own policies as in my opinion the City of Vaughan is issuing out false statements that do not provide response's in accordance with the VOP policy and legislated framework reference with the City of Vaughan's policy.

The City of Vaughan's responses are very offensive in the environment we were forced to live in with no mitigation plan in place that would have been in line with Ontario regulation 153/04. That could have protected us from damages, harm, mental anguish, etc. The responses of the City of Vaughan devalued our quality of life that we simply did not matter.

I am requesting that the City of Vaughan stop dismissing their responsibility of their position of what has happened here as The City of Vaughan has had and continues to have a large role of what is continuing to happen here and failing to govern accordingly. Causing harm, and damages etc..... and failing to provide a Duty of Care and uphold their elective role and oath of public office which in my opinion is abuse of public office and a violation against the Vaughan Accord that this current elective body has signed and endorsed to govern by. I ask this elective body to reflect and ask your self if you would sit back and allow you and your family to be adversely affected in these degrading living conditions that have caused an unmeasurable amount of damages to private properties and peoples quality of lives with no measures of protection in place or government support or transparency.

Regards,
Simone Barbieri