

**CITY OF VAUGHAN
COUNCIL MINUTES
JANUARY 24, 2017**

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CITY OF VAUGHAN

COUNCIL MEETING

TUESDAY, JANUARY 24, 2017

MINUTES

1:00 P.M.

Council convened in the Municipal Council Chamber in Vaughan, Ontario, at 1:08 p.m.

The following members were present:

Hon. Maurizio Bevilacqua, Mayor
Regional Councillor Michael Di Biase
Regional Councillor Gino Rosati
Regional Councillor Mario Ferri
Councillor Tony Carella
Councillor Rosanna DeFrancesca
Councillor Marilyn Iafrate
Councillor Alan Shefman
Councillor Sandra Yeung Racco

1. CONFIRMATION OF AGENDA

MOVED by Regional Councillor Di Biase
seconded by Councillor Iafrate

THAT the agenda be confirmed.

AMENDMENT

MOVED by Councillor Iafrate
seconded by Councillor DeFrancesca

That the following addendum be added to the agenda:

**1. JUDICIAL REVIEW
COSTS INQUIRY**

Confidential verbal report with respect to the above.

CARRIED UNANIMOUSLY

Upon the question of the main motion:

CARRIED AS AMENDED

2. DISCLOSURE OF INTEREST

Regional Councillor Di Biase declared an interest with respect to Confidential Addendum Item 1, JUDICIAL REVIEW, COSTS INQUIRY, as the matter pertains to him.

3. ADOPTION OR CORRECTION OF MINUTES

MOVED by Councillor Yeung Racco
seconded by Regional Councillor Ferri

THAT the minutes of the meeting of December 13, 2016, Special Council and Special Council (2) meetings of December 13, 2016 be adopted as presented.

CARRIED

4. COMMUNICATIONS

MOVED by Councillor Iafrate
seconded by Regional Councillor Ferri

THAT Communications C1 to C9 inclusive be received and referred to their respective items on the agenda.

CARRIED

5. DEVELOPMENT CHARGE COMPLAINT HEARING

(Referred)

MOVED by Councillor Yeung Racco
seconded by Councillor Iafrate

That the following be approved in accordance with Communication C6, from the Director of Financial Planning and Development Finance and Deputy City Treasurer, the Deputy City Manager, Legal and Human Resources, and the Director of Building Standards, dated January 23, 2017:

1. The complaint on behalf of Playacor Holding Ltd. having been withdrawn, that the report of the Chief Financial Officer and City Treasurer and Director, Financial Planning & Development Finance and Deputy City Treasurer, dated December 5, 2016, be received.

CARRIED

Council, at its meeting of December 13, 2016, adopted the following recommendation (Item 1, Report No. 15):

Recommendation of the Finance, Administration and Audit Committee meeting of December 5, 2016:

The Finance, Administration and Audit Committee recommends:

- 1) That consideration of this hearing be deferred to the Council meeting of January 24, 2017, to allow parties to meet and address issues;
- 2) That the deputation of Mr. Leo Longo, Aird & Berlis, Bay Street, Toronto, on behalf of the applicant, be received; and
- 3) That Communication C1, memorandum from the Director of Financial Planning and Development Finance and Deputy City Treasurer, the Director of Legal Services and the Director of Building Standards, be received.

Report of the Chief Financial Officer and City Treasurer and Director, Financial Planning & Development Finance and Deputy City Treasurer, dated December 5, 2016

Recommendation

The Chief Financial Officer and City Treasurer and Director, Financial Planning & Development Finance and Deputy City Treasurer, in consultation with the Deputy City Manager, Legal and Human Resources, the Deputy City Manager, Planning and Growth Management, the Director, Legal Services and the Director, Building Standards recommend:

1. That Council determine that the Development Charges By-law has been properly applied to the non-residential development at 105 and 131 Four Valley Drive; and
2. That Council dismiss the complaint filed pursuant to Section 20 of the Development Charges Act.

Contribution to Sustainability

It is important that the City defend the application of its Development Charge (DC) By-laws as the funds collected fund growth related capital costs such as roads, water mains and fire stations that help service these developments and redevelopments.

Economic Impact

There are no immediate financial impacts that would result from the recommendations in this report. DCs have already been collected by the City prior to building permit issuance.

Should the applicant appeal Council's decision to the Ontario Municipal Board (OMB) then external legal costs may be incurred in the future.

Communications Plan

Notice of the hearing has been sent to the Complainant.

Purpose

The purpose is to respond to a complaint filed by Aird & Berlis LLP on behalf of Playacor Holding Ltd. ("the Complainant") pursuant to section 20 of the DC Act, 1997 ("the DC Act").

Background - Analysis and Options

Playacor Holdings Ltd. is the owner of 105 and 131 Four Valley Drive and applied for a building permit, Building Permit #2016 000752, to construct a car dealership (Pfaff Porsche). Staff assessed DCs in the amount of \$486,663.66 for the City component of the charge based on 9,012.29 square metres of Gross Floor Area (GFA) at a rate of \$54/m² pursuant to DC By-law 045-2013 as amended. The Complainant paid the DC at issuance of the building permit. The GFA used to assess the DC included below grade GFA which is the subject of this complaint.

Provisions under the DC Act allow a complaint under limited circumstances

Under Section 20 of the DC Act, a person required to pay a DC may complain to the municipality imposing the charge that,

- a) The amount of the DC was incorrectly determined;
- b) Whether a credit is available to be used against the DC, or the amount of the credit or the service with respect to which a credit was given, was incorrectly determined, or
- c) There was an error in the application of the DC by-law.

Section 20 further requires that Council hold a hearing into the complaint and give the complainant an opportunity to make representations at the hearing. After hearing the evidence and submissions of the complainant, the Council may dismiss the complaint or rectify any incorrect determination or error that was subject of the complaint. Under Section 22 the complainant may appeal the decision of Council to the OMB.

The basis of the complaint is related to the definition of a “commercial parking garage”

The letter received from the Complainant makes claim that there was an error in the application of the Development Charge By-law #045-2013. The basis of the complaint is that the underground parking spaces were included in the GFA. The Complainant states that the space was not designed or intended to be used as a “commercial parking garage” as defined in the DC By-law and that the parking spaces are exempted from the By-law’s GFA definition. The Complainant is seeking a refund of the City DC’s paid related to the underground parking spaces.

Staff has reviewed the complaint and believe DCs were assessed correctly

Staff is of the opinion that the DC By-law was appropriately applied.

The DC By-law definitions relevant to this file are as follows:

(k) “commercial parking garage” means a building or structure, or any part thereof, where motor vehicles **are stored prior to being sold or rented** to the general public, or whose principal use is the parking of motor vehicles for remuneration.

(s) “gross floor area” means, in the case of a non-residential building or structure or the non-residential portion of a mixed-use building or structure, **the aggregate of the areas of each floor, whether above or below grade**, measured between the exterior faces of the exterior walls of the building or structure or from the centre line of a common wall separating a non-residential and residential use, and:

(iv) excludes in the case of a building containing non-commercial parking garage spaces, the sum of the areas of each floor used, or designed or intended for use for the non-commercial parking of motor vehicles, **but includes any part of a building or structure above or below grade used as a commercial parking garage.**

The building permit application is for the construction of a car dealership that includes below grade floor space. The Site Statistical chart of the Building Permit drawings referenced “Basement” GFA of 2638.27 m² and “Basement Employee Parking” of 1391.66 m². The Building Standards Department’s review of the drawings determined that the space was not considered vehicle parking in accordance with the requirement of Subsection 3.8 Parking Requirements and the definitions in section 2.0 of zoning By-law 1-88. Even if this space was suitable for parking, the definition of “commercial parking garage” would be applied and DC’s would be charged for the space.

The underground parking space defined in the building drawing is 1391.66 m². The City DC for this space is \$75,149.64.

Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

The DC By-law is used to recover costs of growth related capital and the defense of this By-law is consistent with the Service Excellence Strategic Initiative of Financial Sustainability.

Regional Implications

The Region has received a DC complaint from the same complainant. City staff expect the Region will also deal with the complaint shortly.

Conclusion

Staff is of the opinion that the DC By-law was applied properly and no error was made in the calculation of the DC, therefore the complaint should be dismissed.

Attachments

Attachment 1 Complaint letter from Aird & Berlis LLP on behalf of Playacor Holdings Ltd.

Attachment 2 Communication C1 from the Finance, Administration and Audit Committee of December 5, 2016

Report prepared by:

Terry Liuni, Manager, Development Finance, Ext. 8354

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

6. DETERMINATION OF ITEMS REQUIRING SEPARATE DISCUSSION

The following items were identified for separate discussion:

Finance, Administration and Audit Committee Report No. 1

Items 1, 3 and 4

Committee of the Whole Report No. 2

Items 1 and 3

Addendum Item

Item 1

MOVED by Regional Councillor Ferri
seconded by Councillor DeFrancesca

THAT Items 1 to 8 of the Finance, Administration and Audit Committee Report No. 1, with the exception of the items identified for separate discussion, BE APPROVED and the recommendations therein be adopted;

THAT Item 1 of the Committee of the Whole (Closed Session) Report No. 1, BE APPROVED and the recommendations therein be adopted;

THAT Items 1 to 24 of the Committee of the Whole Report No. 2, with the exception of the items identified for separate discussion, BE APPROVED and the recommendations therein be adopted;

THAT Items 1 to 2 of the Committee of the Whole (Public Hearing) Report No. 2, BE APPROVED and the recommendations therein be adopted; and

THAT Items 1 to 3 of the Committee of the Whole (Working Session) Report No. 3, BE APPROVED and the recommendations therein be adopted.

CARRIED

7. **CONSIDERATION OF ITEMS REQUIRING SEPARATE DISCUSSION**

FINANCE, ADMINISTRATION AND AUDIT COMMITTEE REPORT NO. 1

(Refer to Committee Report for complete recommendations and documentation on all Committee items.)

ITEM - 1 2017 DRAFT WATER, WASTEWATER AND STORMWATER
 OPERATING BUDGETS AND THE 2018 PLAN

MOVED by Regional Councillor Di Biase
seconded by Councillor Yeung Racco

THAT Item 1, Finance, Administration and Audit Committee Report No. 1 be adopted and amended, as follows:

By receiving the following Communications:

- C5 Director of Financial Services/Deputy City Treasurer, dated January 20, 2017;
- C7 Director of Financial Services/Deputy City Treasurer, Director of Financial Planning and Development Finance and Deputy City Treasurer, dated January 23, 2017; and
- C8 Deputy City Manager, Public Works, dated January 23, 2017.

CARRIED

ITEM - 3 FINANCIAL SUSTAINABILITY PROGRAM AND FISCAL FRAMEWORK
 GUIDING PRINCIPLES

MOVED by Regional Councillor Ferri
seconded by Councillor DeFrancesca

THAT Item 3, Finance, Administration and Audit Committee Report No. 1 be adopted and amended, as follows:

By approving the following in accordance with Communication C1, from the Director of Internal Audit, dated January 20, 2017:

1. That the Financial Planning & Budget Process audit, currently scheduled for 2017 as part of the 2015 – 2018 Internal Audit Risk Based Work Plan, be deferred until the completion of the Financial Sustainability Program and Fiscal Framework Guiding Principles project.

CARRIED

ITEM - 4 AWARD OF TENDER T-16-411
 SPECIFICATION FOR A VACUUM EXCAVATION DEVICE MOUNTED
 ON A TANDEM AXLE CAB AND CHASSIS COMPLETE WITH A HIGH
 PRESSURE FLUSHING/WASHING SYSTEM AND A STEEL DEBRIS
 TANK AND BUDGET AMENDMENT

MOVED by Councillor Yeung Racco
seconded by Councillor Iafrate

THAT Item 4, Finance, Administration and Audit Committee Report No. 1 be adopted and amended, as follows:

By approving the following in accordance with Communication C2, from the Deputy City Manager, Public Works and the Director, Fleet Management Services, dated January 18, 2017:

1. That recommendation 4. contained in the report of the City Manager, the Director of Fleet Management Services and Director of Environmental Services, dated January 16, 2017, be deleted and replaced with the following:
 4. That additional project funding in the amount of \$80,934.67 be added to Capital Project FL-5517-16 funded from the Wastewater Reserve.

CARRIED

COMMITTEE OF THE WHOLE REPORT NO. 2

(Refer to Committee Report for complete recommendations and documentation on all Committee items.)

ITEM - 1 AWARD OF RFP16-307 – RESIDENTIAL SOLID WASTE COLLECTION FOR CITY OF VAUGHAN

MOVED by Councillor Iafrate
seconded by Councillor Carella

THAT Item 1, Committee of the Whole Report No. 2 be adopted without amendment.

CARRIED

ITEM - 3 PARKING PROHIBITION REVIEW
WOODBIDGE AVENUE, EAST OF CLARENCE STREET
WARD 2

MOVED by Councillor Carella
seconded by Regional Councillor Di Biase

THAT Item 3, Committee of the Whole Report No. 2 be adopted and amended, as follows:

By approving the following:

That a traffic study be conducted along Woodbridge Avenue from Islington Avenue to Kipling Avenue, to consider:

1. The designation of a dedicated right-turn-only lane on westbound Woodbridge Avenue at Clarence Street;
2. An increase in the duration of the southbound green light on Clarence Street to facilitate the better flow of traffic through this intersection on weekday mornings; and
3. The designation of an eastbound left-turn-only lane onto Clarence Street from Woodbridge Avenue.

CARRIED

8. RESOLUTION TO RESOLVE INTO CLOSED SESSION

MOVED by Regional Councillor Rosati
seconded by Councillor Yeung Racco

That Council resolve into Closed Session for the purpose of discussing the following matter:

1. JUDICIAL REVIEW
COSTS INQUIRY
Confidential Addendum No. 1

(solicitor/client privilege)

CARRIED

Council recessed at 1:33 p.m.

MOVED by Councillor Yeung Racco
seconded by Councillor Carella

THAT Council reconvene at 2:25 p.m.

CARRIED

Council reconvened at 2:25 p.m. with the following members present:

Hon. Maurizio Bevilacqua, Mayor
Regional Councillor Gino Rosati
Regional Councillor Mario Ferri
Councillor Tony Carella
Councillor Rosanna DeFrancesca
Councillor Marilyn Iafrate
Councillor Alan Shefman
Councillor Sandra Yeung Racco

**9. JUDICIAL REVIEW
COSTS INQUIRY**

Confidential Addendum No. 1

MOVED by Councillor DeFrancesca
seconded by Councillor Iafrate

- 1) That the confidential recommendation of the Council (Closed Session) meeting of January 24, 2017, be approved; and
- 2) That confidential Communication C10 from the Deputy City Solicitor, dated January 23, 2017, be received.

CARRIED

Having previously declared an interest Regional Councillor Di Biase was not present when the foregoing matter was under consideration.

10. BY-LAWS

MOVED by Councillor Yeung Racco
seconded by Councillor DeFrancesca

- 1) THAT the following by-law be enacted, as amended:

By-Law Number 014-2017 A By-law to amend City of Vaughan By-law 1-88. (Z.16.003, DA.16.007, Penguin-Calloway (Vaughan) Inc., located on the west side of Millway Avenue and on the north side of Apple Mill Road, in Lot 6, Concession 5) (Lifting “H” Symbol) (Council, December 13, 2016, Item 32, Committee of the Whole, Report No. 43);

- 2) That Communication C9, from the Deputy City Manager, Planning & Growth Management, dated January 24, 2017, with respect to By-law 014-2017, be received; and

- 3) THAT the following by-laws be enacted:

By-Law Number 001-2017 A By-law to authorize execution of Development Charges Deferral Agreement between the City of Vaughan and Penguin-Calloway (Vaughan) Inc. (VMC, YMCA, City Library and Recreation) (Council, September 20, 2016, Item 11, Finance, Administration and Audit Committee, Report No. 9)

By-Law Number 002-2017 A By-law to provide for the issuance of the 2017 interim property tax billing. (Item 5, Finance, Administration and Audit Committee, Report No. 1)

By-Law Number 003-2017 A By-law to assume Municipal Services in Royal Garden Homes Subdivision, Phase 1, 19T-03V12, Registered Plan 65M-3968. (dated January 11, 2007) (Item 12, Committee of the Whole, Report No. 2)

By-Law Number 004-2017 A By-law to partially assume Municipal Services in Block 11 Spine. (Block 11 Developers’ Group (Block 11 Properties Inc. – Trustee): 1275621 Ontario Inc.; Alice Smith; Thornhill Ravines Development Corporation; North Bathurst Developments Limited; Lindvest Properties (Bathurst Mackenzie) Limited; Nine-Ten West Limited; Woodvalley Developments Inc.; Ankara Realty Limited; 1376018 Ontario Limited; Block 11 (Rutherford) Inc.; Block 11 (Major Mackenzie) Inc. and Block 11 Properties Inc. dated August 11, 2006) (Item 13, Committee of the Whole, Report No. 2)

By-Law Number 005-2017 A By-law to partially assume Municipal Services in Block 18 Spine. (Block 18 Developers’ Group (Block 18 Properties Inc. – Trustee): Fernbrook Homes (Block 18 Gulf) Limited; Fernbrook Homes (Majormac) Limited; Ivyglen Developments Inc.; East Maple Creek Lands Ltd.; Milescove Holdings Inc.; Medallion Developments (South Maple) Limited; Dufferin Rutherford Holdings Limited; 1275620 Ontario Inc.; Block 18 Trees Inc.; Nine-Ten West Limited; Block 18 Properties Inc.; Block 18 (Betti) Inc.; Honeyvale Glade Estates Inc. and Block 18

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	Properties Inc. dated July 12, 2006) (Item 14, Committee of the Whole, Report No. 2)
By-Law Number 006-2017	A By-law to assume Municipal Services in Fondi Homes Townhouse Development. (dated December 20, 2011). (Item 15, Committee of the Whole, Report No. 2)
By-Law Number 007-2017	A By-law to amend by-law 189-96 to prohibit or regulate the placing or dumping of fill in areas of the City of Vaughan, as amended. (Item 7, Committee of the Whole, Report No. 2)
By-Law Number 008-2017	A By-law to designate by Number an amendment to City of Vaughan By-law Number 1-88, as effected by the Ontario Municipal Board. (OMB File No. PL131327, Z.08.032, DA.13.014, Blue Water Ranch Developments Inc., & Thornhill Retirement Residence L.P.) (Council, September 9, 2014, Item 59, Committee of the Whole, Report No. 36)
By-Law Number 009-2017	A By-law to amend City of Vaughan By-Law Number 087-2016, as amended with respect to wastewater rates. (effective as of April 1, 2017) (Item 1, Finance, Administration and Audit Committee, Report No. 1)
By-Law Number 010-2017	A By-law to amend City of Vaughan By-Law Number 177-2016, as amended with respect to water rates. (effective as of April 1, 2017) (Item 1, Finance, Administration and Audit Committee, Report No. 1)
By-Law Number 011-2017	A By-law to amend City of Vaughan By-law 1-88. (DA.15.093, Housing York Inc. / Regional Municipality of York, located on the east of Kipling, on the south side of Woodbridge Avenue, known municipally as 259 and 275 Woodbridge Avenue and 64 Abell Avenue, being Part of Lot 7, Concession 7) (Council, December 13, 2016, Item 1, Committee of the Whole, Report No. 43)
By-Law Number 012-2017	A By-law to exempt parts of Plan 65M-4487 from the provisions of Part Lot Control. (PLC.16.014, Tiffany Park Homes (Woodbridge) Ltd., located north of Major Mackenzie Drive, west of Weston Road, on Hatton Garden Road (Lots 1 to 5 inclusive, Plan 65M-4487), Allegranza Avenue (Block 20, Plan 65M-4487) and Farooq Boulevard (Block 22, Plan 65M-4487) in Part of Lot 21, Concession 6) (Delegation By-law 195-2015)
By-Law Number 013-2017	A By-law to amend City of Vaughan By-law 1-88 as amended by By-law 182-2015. (Z.14.025, OP.14.004, 19T-14V006, DA.15.034, Pebble Creek Developments Inc., located on the north side of Regional Road 7, west of Pine Valley Drive, being Part of Lot 6, Concession 7, and are municipally known as 4650 Regional Road 7) (Administrative Correction) (Council, October 20, 2015, Item 13, Committee of the Whole, Report No. 35)

- | | |
|------------------------|---|
| By-Law Number 014-2017 | A By-law to amend City of Vaughan By-law 1-88. (Z.16.003, DA.16.007, Penguin-Calloway (Vaughan) Inc., located on the west side of Millway Avenue and on the north side of Apple Mill Road, in Lot 6, Concession 5) (Lifting “H” Symbol) (Council, December 13, 2016, Item 32, Committee of the Whole, Report No. 43) |
| By-Law Number 015-2017 | A By-law to exempt parts of Plan 65M-4318 from the provisions of Part Lot Control. (PLC.16.013, Condor Huntington Prop. Part. LP, located on the east side of Regional Road 50, north of Trade Valley Drive, being Block 2 on Registered Plan 65M-4318, in part of Lot 13, Concession 10) (Delegation By-law 195-2015) |
| By-Law Number 016-2017 | A By-law to of the Corporation of the City of Vaughan to amend Licensing By-law No. 315-2005, as amended, to add new categories of businesses to be licensed, introduce a new system of licence renewal dates, and to amend Fees and Charges By-law No. 171-2013, as amended, to include fees for late licence renewal. (Council, November 15, 2016, Item 2, Committee of the Whole (Working Session), Report No. 40) |

CARRIED

11. CONFIRMING BY-LAW

MOVED by Regional Councillor Rosati
seconded by Councillor Iafrate

THAT By-law Number 017-2017, being a by-law to confirm the proceedings of Council at its meeting on January 24, 2017, be enacted.

CARRIED

12. ADJOURNMENT

MOVED by Councillor Carella
seconded by Councillor Shefman

THAT the meeting adjourn at 2:26 p.m.

CARRIED

Hon. Maurizio Bevilacqua, Mayor

Jeffrey A. Abrams, City Clerk