

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 13, 2016

Item 3, Report No. 15, of the Finance, Administration and Audit Committee, which was adopted, as amended, by the Council of the City of Vaughan on December 13, 2016, as follows:

By receiving Communication C3 from Mr. John Cartwright, Toronto & York Region Labour Council, Gervais Drive, Toronto, dated December 2, 2016.

3 FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN

The Finance, Administration and Audit Committee recommends:

- 1) That consideration of this matter be deferred to a future Finance, Administration and Audit Committee, no later than May 2017, to allow appropriate staff and interested parties, as previously identified and as may come forward from the industry, to continue discussions with the intention of providing a joint recommendation on this matter; and

That in the event more time is needed, staff on behalf of the parties may inform Council that they require additional time and report back in September 2017;

- 2) That the deputation of Mr. Mike Yorke, Carpenters Local 72, Rowntree Parkway, Vaughan, be received; and

- 3) That the following Communications be received:

C2. Memorandum from the City Manager, the Chief Financial Officer and City Treasurer and the Director of Procurement Services, dated December 1, 2016; and

C3. Mr. Tony Iannuzzi, Carpenters' District Council of Ontario, dated December 1, 2016.

Recommendation

The City Manager, Chief Financial Officer & City Treasurer and the Director of Procurement Services, recommend:

1. That the City not implement a Fair Wage Policy at this time.

Contribution to Sustainability

This report contributes to Service Excellence. Procurement Services supports improving the City of Vaughan's operational performance to enable the delivery of Term of Council priorities while meeting Council's tax rate increase target of no greater than three per cent each year.

Procurement Services strives to ensure that the way we acquire goods, services and construction, help ensure value-for-money and contributes to the City's long-term financial sustainability.

Economic Impact

There is no economic impact associated with the receipt of this report. However, if at some point in the future the City considers implementing a Fair Wage Policy, an initial investment in consulting services will be required to conduct a comprehensive study prior to the drafting and implementation of the policy. This would also include establishment of Fair Wage Rate schedules for various trade classifications. Additional resources would also be required to monitor compliance with the Policy, including investigative services to validate the claims of Sub-Contractors as they relate to City's Fair Wage Policy. There may also be a material cost impact on City contracts that have significant labour components, for instance, construction and consulting contracts. This impact would be determined as part of the study.

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Communications Plan

Not applicable

Purpose

The purpose of this staff report is to provide Council with information requested on the feasibility of a potential Fair Wage Policy for the City of Vaughan as per Member's Resolution from Finance, Administration and Audit Committee Meeting dated May 2, 2016. This report will discuss the City's current practice, jurisdictional research, resources requirements, and high-level implementation implications of a Fair Wage Policy for the City.

Background - Analysis and Options

At its May 2, 2016, the Finance Administration & Audit Committee adopted the following motion which was later approved on the May 17, 2016 Council Meeting:

"That the City Manager report to a future Committee of the Whole on the following matters, prior to the end of the current calendar year:

- a) The feasibility of implementing a Fair Wage Policy for City of Vaughan contracts.*
- b) A review of the implementation and budget implications of Fair Wage Policies in other jurisdictions including, but not necessarily limited to the Cities of Toronto, Hamilton, and London (Ont);*
- c) A review of the Province of Ontario's Fair Wage Policy, including an update from the Ministry of Labour on the progress of their announced plans to modernize the provincial Fair Wage Policy.*
- d) An update from the Federal Government on their election commitment to implement a federal Fair Wage Policy.*
- e) Consultations with relevant stakeholders, most particularly labour organizations with facilities in the City of Vaughan.*
- f) A brief overview of the underground economy in Ontario's construction industry and the implications it has on workplace health and safety."*

All City of Vaughan contracts include a clause to protect workers and ensure they are being paid fairly under all City contracts.

At present, City of Vaughan does not have a Fair Wage Policy. However, to ensure that all workers are being paid fairly, all City's contract documents include a "Payment for Workers" clause as per below:

"The Contractor shall pay or cause to be paid weekly/biweekly to every worker employed in the execution of the Contract, wages at not less than the following rates:

- 1) For workers employed in the execution of the Contract, who are in contractual relationship with a union, the minimum rate of wages shall be the union rate of wages in the particular district or locality in which the work is undertaken; or*
- 2) For workers employed in the execution of the Contract, who are not in contractual relationship with a union, the minimum rate of wages shall be the current Fair Wage Schedules of the Labour Standards Branch, of the Ontario Department of Labour, in the particular district or locality in which the work is undertaken. Revisions made to the schedule during the course of the Contract shall apply from the effective date of such revisions and all additional resultant costs shall be borne by the Contractor."*

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City of Vaughan currently does not have a Wage Compliance Office.

Although the City contract documents include a Payment to Workers clause to protect workers against unfair wages, the City does not have a separate Wage Compliance Office. The City departments, in consultation with Procurement Services and Legal Services departments address any issues related to contract non-compliance, such as poor performance, incomplete work and non-payment of sub-contractors, on an as needed basis. To date, the City has not received any complaints relating to unfair wages made to workers under City contracts.

Only 7 of the 444 municipalities in Ontario have a Fair Wage Policy

Based on jurisdictional research, less than 2% of the Ontario municipalities have a Fair Wage Policy. Attachment 1 – Fair Wage Policies in Ontario provides details of these 7 municipalities, including year implemented, last update, and contract thresholds for the Policy application. For 6 of these municipalities, compliance with the Policy is achieved through self-policing. Contractors are required to provide in writing their adherence to the respective Fair Wage Policy. Complaints from sub-contractors are received and investigated by the City. For some municipalities, fees may be charged to the sub-contractors.

City of Toronto has established a Fair Wage Office that administers the Fair Wage Policy that prohibits the City from doing business with contractors and suppliers who discriminate against their workers. The Office investigates complaints and takes enforcement action when it is determined that a contractor has failed to pay its workers the prescribed hourly wage rates, vacation and holiday pay and applicable amount for fringe benefits shown in the current fair wage schedule.

City of Pickering adopted Fair Wage Policy in June 2011 which was later repealed in January 2016.

City of Pickering adopted the Fair Wage Policy in 2011, which applied to all contracts over \$1,000,000. During the four and half years that this Policy was in force, there was only one contract that it applied to. The policy can create additional administrative processes as it relates to the construction of capital infrastructure and staff resources for monitoring policy compliance and conducting complaint-driven investigations. Critics of this policy believe that it can reduce competition, increase labour and procurement costs resulting in higher costs to the taxpayer. As such, in January 2016, Pickering Council approved staff recommendation to repeal the policy.

Fair Wages and Hours of Labour Act was passed by the Federal Government of Canada in 1985, and was repealed in 2014.

The purpose of the Fair Wages and Hours of Labour Act and Regulations was to ensure that all workers, tradespeople and subcontractors employed on federal government construction contracts benefit from fair wages and working conditions. Contractors bidding on federal construction projects, were required to meet the conditions defined in this Act and pay the wages established by the Labour Program in support of the Act and its regulations. The Fair Wages and Hours of Labour Act and Regulations were repealed on January 1, 2014, however, all federal construction contracts that contained a fair wage clause were to be governed by provisions of the Act and Regulations for the duration of that contract.

Modernization of the Federal Government's Fair Wages Policy identified as a key priority for the Department of Employment, Workforce Development and Labour.

The mandate letter from Prime Minister Justin Trudeau to Ms. MaryAnn Mihychuk, Minister of Employment, Workforce Development and Labour, included modernization of the federal Fair

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Wage Policy as one of the key priorities. As per the 2016–17 Report on Plans and Priorities by the Employment and Social Development Canada, modernization of Fair Wages Policy has been identified as one of the key supporting initiatives for department priority to develop and implement policies, programs and services that support workers and employers, and work with provinces and territories to respond to the realities of today's labour market. This initiative commenced in April 2016, and is currently ongoing.

The underground economy accounts for \$15 billion in lost economic activity in Ontario each year.

According to Statistics Canada, the nation's underground economy accounts for 2.3 per cent of the GDP resulting to approximately \$42 billion in annual economic activity. In Ontario, the underground economy accounts for \$15 billion in lost economic activity each year. Statistics Canada has also identified that the residential construction sector comprises almost 30 per cent of Ontario's underground economy, which translates into approximately \$4.5 billion in economic activity per year.

The underground economy in the residential construction sector can lead to liability issues for homeowners and lost tax revenue for government. For businesses that conduct "cash deals", there is a high probability that the business owners aren't paying protection or liability insurance and possibly avoiding license and permits to ensure workplace health and safety. This creates a significant risk for workers. On the other hand, "cash deals" and un-written contracts put customers at risk and they have no protection against poor or incomplete work, being sued if a worker gets injured, cost overruns, the use of substandard materials, damages to property or fraud.

In the 2015 Ontario Economic Outlook and Fiscal Review, the Province made a commitment to address Ontario's underground economy and maintain tax fairness. Since then, the Parliamentary Assistant Laura Albanese has been holding consultations with the residential construction industry on issues related to the underground economy. In February 2016, an Interim Report was issued by Parliamentary Assistant Laura Albanese outlining the key themes and initial recommendations resulting from the stakeholder consultations. Some of these recommendations include launching a public awareness campaign to inform Ontario homeowners, businesses, and consumers of the risks and potential liabilities associated with participation in the underground economy which will help mitigate workplace health and safety risks. Further consultations are being held before the Final Recommendations will be issued.

The Province has taken the lead on addressing the important issue of underground economy in construction industry in Ontario, and has made significant progress to date. The City will continue to monitor these reports, and where possible, fully support and participate in the initiatives led by the Province.

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

N/A

Regional Implications

Not applicable

Conclusion

The City of Vaughan currently does not have a Fair Wage Policy or a Wage Compliance Office. Based on jurisdictional research, less than 2% of the Ontario municipalities have a Fair Wage Policy. Some municipalities, similar to City of Vaughan, include "Payment for Workers" clause as

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part of the contract documents, which requires all workers to be paid as per the minimum wage requirements of the Province, and/or union agreements. This ensures that workers are being paid fairly, while allowing public procurement process to rely on the competitive wages within the Construction industry and managing contractual costs for the City. There has been no evidence supporting a correlation between quality of work and a Fair Wage Policy.

With respect to the underground economy in the Ontario's construction industry, as a municipality, the City may not be in a position to have a direct impact, however, we will continue to support and participate in the initiatives led by the Province to address this important issue.

As part of the Procurement Policy review, staff have identified Fair Wages as one consideration. Given that work on the modernization of Fair Wage Policies is underway at the federal and provincial levels, it is advisable that the City wait to review the implications on local municipalities before further consideration of developing a policy for the City of Vaughan. Implementation of a Fair Wage Policy for the City would cause additional administrative and financial burden for the City. If at some point in the future the City considers moving forward to implement a Fair Wage Policy, additional resources would be required to conduct a comprehensive study, draft and implement the policy and conduct on-going compliance of the policy.

Attachments

Attachment 1: Fair Wage Policies in Ontario

Report prepared by:

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Asad Chughtai
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(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.)