

**CITY OF VAUGHAN**

**EXTRACT FROM COUNCIL MEETING MINUTES OF SEPTEMBER 20, 2016**

Item 32, Report No. 31, of the Committee of the Whole, which was adopted, as amended, by the Council of the City of Vaughan on September 20, 2016, as follows:

***By approving the following recommendation of the Council (Closed Session) meeting of September 20, 2016:***

- 1. That the legal advice be received.**

**32** **CLOSED MEETING INVESTIGATION REPORT  
REGARDING THE SPECIAL MEETING OF COMMITTEE OF THE WHOLE  
FOR THE CITY OF VAUGHAN IN CLOSED SESSION ON APRIL 13, 2016**

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the City Clerk, dated September 7, 2016, be approved;**
- 2) That the deputation of Ms. Carrie Liddy, Humberview Drive, Woodbridge, and Communication C4, dated September 2, 2016, be received; and**
- 3) That the following communications be received:**

**C3 Mr. Richard Lorello, dated September 1, 2016;**  
**C11 City Clerk, dated September 1, 2016; and**  
**C12 Confidential Communication from the City Clerk, dated September 1, 2016.**

**Recommendation**

The City Clerk recommends:

- 1. That the closed meeting investigation report of Amberley Gavel Ltd. dated August 2016 and set out at Attachment 1 to this report, be received.**

**Contribution to Sustainability**

The considerations addressed in this report may assist in the development of practices and procedures that support an accountable, transparent and pragmatic approach to deliberations undertaken in Council and at its various committees.

**Economic Impact**

The cost of the investigation has not yet been invoiced by Amberley Gavel Ltd. Under the City's contractual arrangements with the Local Authority Services arm of AMO, a \$330 per year retainer is paid to Amberley Gavel Ltd. to serve as the City's closed meeting investigator. A further fee paid at the rate of \$225 per hour, plus taxes and reasonable out of pocket expenses, is also payable upon receipt of an itemized invoice. A filing fee of \$125 was paid by the complainant to the City at the time the complaint was filed.

**Communications Plan**

The investigation report is being made public through publication of this report.

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#### **Purpose**

This report provides Council with the outcome of a closed meeting investigation conducted by the City's appointed investigator pursuant to sections 239.1 and 239.2 of the *Municipal Act*.

#### **Background - Analysis and Options**

It is the obligation of Council to declare by resolution the general nature of an item to be discussed in closed session, and the Municipal Act provision under which the closed meeting is permitted to be held. In this case the item was described as 'City Manager Recruitment' and Council resolved to go into closed session on the basis that it dealt with the 'personal information of identifiable individuals'. The City's practice is to disclose as much information as is practical when complying with the requirement to disclose the topic of a closed meeting, bearing in mind the protection of both the City's interests and the personal privacy interests of persons who may be affected. All of this must be assessed of course in the context of a complex human resources recruitment for the head of the City's administration.

By correspondence dated April 14, 2016, the City Clerk received a closed meeting complaint respecting the 'special closed meeting' of April 13, 2016. The complaint was forwarded to the City's Closed Meeting Investigator, Amberley Gavel, for processing.

Pursuant to s. 239.2 (10) of the *Municipal Act*, if after making an investigation, the Closed Meeting Investigator is of the opinion that the meeting or part of the meeting that was the subject matter of the investigation appears to have been closed to the public contrary to section 239 or to the municipality's procedure by-law, the Investigator shall report his or her opinion and the reasons for it to the municipality and may make such recommendations as he or she thinks fit.

The municipality is required to ensure that the reports received under subsection (10) are made available to the public. It is the practice of the City of Vaughan to do so through the publication of the report on a public agenda.

In the instant case the Closed Meeting Investigator concluded:

- That Committee of the Whole (Closed Session)\* (sic) was not properly in closed session when it met on April 13, 2016. [\*The meeting of April 13, 2016 was a Special Meeting of Council];
- That in the view of the Investigator one of the substantive decisions made at the meeting was not permitted to be made in closed session (that being an item relating to the organizational design of the City, the establishment of a new Deputy City Manager position);
- That the procedure by-law was breached by not following correct processes for giving notice about what the investigator concluded was a separate agenda item (the new position), for not adding that agenda item by unanimous consent only, and for not passing a specific resolution to discuss that item in closed session (the appointment of a person to the position).

Accordingly, given the Investigator's conclusions, the entire report is attached for public disclosure.

The report having been received on August 22, 2016, little time for analysis has been available prior to placing this report on the public agenda for Committee of the Whole. Staff will review the report in detail and provide further analysis through a communication to Committee.

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

This report is consistent with the priorities established in the Term of Council Service Excellence Strategy Map, particularly with respect to continuing to advance a culture of excellence in governance.

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**Regional Implications**

N/A

**Conclusion**

This report satisfies the City's requirement to make public closed meeting investigation reports in which the Closed Meeting Investigator forms the opinion that the City is not in compliance with either the closed meeting requirements of the *Municipal Act* or its procedure by-law. The report having been received just prior to publication deadline for the Committee of the Whole agenda, staff's analysis with respect to the report will be set out in a separate communication to follow.

**Attachment**

Attachment 1    Report, August 2016: Report to the Corporation of the City of Vaughan Regarding the Investigation of a Complaint Regarding the Special Meeting of Committee of the Whole for the City of Vaughan in Closed Session on April 13, 2016

**Report prepared by:**

Jeffrey A. Abrams, City Clerk

(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.)