

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF OCTOBER 20, 2015

Item 20, Report No. 35, of the Committee of the Whole which was adopted, as amended, by the Council of the City of Vaughan on October 20, 2015, as follows:

By approving that periodic meetings between staff and representative of interested parties be set up based on the conditions outlined in Communication C6 from the City Clerk, dated October 19, 2015, as follows:

- 1. That one representative/spokesperson for the neighbouring homeowners, the developer, the Ministry of the Environment and Climate Change, and the City be invited to be participants at the meetings;***
- 2. That the meetings be without prejudice;***
- 3. That an agenda be set for each meeting, and that the meetings take place during normal business hours;***
- 4. That where possible, the meetings take place at or near the site;***
- 5. That legal counsel not be engaged in the meetings;***
- 6. That the meetings be held monthly during the construction season, and otherwise at times to the mutual satisfaction of the participating parties;***
- 7. That the meetings be held in the spirit of resolving the outstanding matters and be terminated should the behavior of any of the parties be considered to be uncivil; and***
- 8. That the meetings terminate upon the full remediation of the site to the satisfaction of the Ministry of the Environment and Climate Change, or upon mutual consent of the active participants.***

**20 5550 LANGSTAFF ROAD - SITE REMEDIATION UPDATE
RAVINES OF RAINBOW CREEK SUBDIVISION – PHASE 2
PLAN OF SUBDIVISION 19T-12V003
WARD 2 - VICINITY OF LANGSTAFF ROAD AND HIGHWAY 27**

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Commissioner of Public Works and the Director of Development Engineering and Infrastructure Planning Services, dated October 7, 2015, be approved;**
- 2) That staff report to the Council meeting of October 20, 2015 on the parameters of a potential Task Force to resolve this matter;**
- 3) That Confidential Communication C3 from the City Solicitor, dated October 7, 2015, be received; and**
- 4) That the following deputations be received:**
 - 1. Ms. Michaela Barbieri, Campania Court, Vaughan;**
 - 2. Mr. Richard Lorello, Treelawn Boulevard, Kleinburg;**
 - 3. Ms. Mary Monaco, Sicilia Street, Woodbridge;**
 - 4. Mr. Gino Barbieri, Campania Court, Woodbridge;**
 - 5. Ms. Simone Barbieri, Campania Court, Woodbridge;**

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- 6. Ms. Phyllis Barbieri, Campania Court, Woodbridge;**
- 7. Mr. Robert Karrass, Morton Karrass LLP, Sheppard Avenue East, Toronto; and**
- 8. Mr. Tony Gentile, Gentile Circle, Vaughan, applicant.**

Recommendation

The Commissioner of Public Works and the Director of Development Engineering and Infrastructure Planning Services, in consultation with the Acting Director of Legal Services, recommend:

1. That the subdivision agreement related to the second phase of the Ravines of Rainbow Creek, Draft Plan of Subdivision 19T-12V003 be executed by the City only after the lands within the Plan have been remediated and a Record of Site Condition has been submitted and acknowledged by the Ministry of the Environment and Climate Change.

Contribution to Sustainability

The remediation and redevelopment of a brownfield site is sustainable for a number of reasons including:

- Environmental – remediation or risk management of waste and contaminants;
- Economic - increased property value/taxes, neighbourhood revitalization, job creation; and
- Social – health benefits, neighbourhood revitalization, increased neighbourhood pride, reduced dumping and crime

Economic Impact

The environmental remediation of the property at 5550 Langstaff Road is the responsibility of the landowner so there is no economic impact to the City resulting from the clean-up work.

Communications Plan

There is no specific communication plan associated with this report.

Purpose

The purpose of this report is to respond to Council's request for a status update on the site remediation activities associated with the development of the Ravines of Rainbow Creek Phase 2 Subdivision located on the property at 5550 Langstaff Road.

Background - Analysis and Options

At its meeting on September 16, 2015, Council adopted the following recommendation of the Committee of the Whole:

"That a report be provided to the Committee of the Whole meeting of October 7, 2015, on the status of 5550 Langstaff Road"

The Ravines of Rainbow Creek Subdivision is located on the property at 5550 Langstaff Road, which is located between Martin Grove Road and the CP Railway line in Woodbridge as shown on Attachment No.1.

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The lands at 5550 Langstaff Road were previously used as an unapproved landfill site during the 1970's and early 1980's for the disposal of solid non-hazardous construction and demolition waste. Accordingly, before development can proceed on this brownfield site, the lands must be fully remediated and a Record of Site Condition subsequently filed and acknowledged by the Ministry of the Environment and Climate Change (MOECC).

The lands are being remediated and developed in two sequential phases

The landowner is developing the Ravines of Rainbow Creek Subdivision in two phases; the limits of each are shown on Attachment No.1. The first phase of the subdivision was initiated in 2007 and construction is now essentially complete. Records of Site Condition were filed and acknowledged by the MOECC for phase one in 2009/10.

The landowner reportedly began remediating the lands in the second phase of the subdivision in 2010. In 2013, Council approved the draft plan of subdivision (19T-12V003) and associated zoning for the second phase of the development. The landowner is currently in the process of remediating the phase 2 lands.

The landowner is solely responsible for remediating the lands

As prescribed in Provincial legislation, the landowner is responsible for the remediation of impacted land. The remediation of the lands is to be carried out in conformance with the *Environmental Protection Act* and associated regulations. The MOECC is the agency that regulates these activities. The City has no jurisdiction over the works associated with an environmental site remediation or alteration/management of a waste disposal site. The City, however, has an interest in managing any related trucking activities on the municipal road network and in minimizing any community impacts from planned development.

City staff believes that, leading up to 2015, the landowner has excavated the eastern half of the phase 2 lands to native ground and then stockpiled the excavated material on the westerly half of the site under the hydro corridor for subsequent processing (screening and sorting). This stockpile of material has been present for a number of years now.

On July 16, 2015, staff issued the landowner a conditional Road Cut Permit to permit the crossing of the City's existing 0.3 metre reserve located between the Phase 2 lands and Campania Court so the landowner's contracted forces could use Campania Court and Sicilia Street as a truck haul route until September 15, 2015. This permit was issued primarily to facilitate the timely removal of the stockpiled material on the phase 2 lands.

On August 17, 2015, a soil screener was delivered to the site and work began to mechanically separate the waste from the useable soil. As of September 15, 2015, staff estimates that approximately between 30 to 40 percent of the original pile of material has been processed and the majority of the resultant screened soil together with other soils has been trucked off site. A significant amount of work effort is still required to completely remove the stockpile of waste material from the phase 2 lands and to remediate the remaining portions on the western half of the property currently beneath the stockpile.

After the Road Cut Permit expired on September 15, 2015, City staff closed the Campania Court construction access by installing a chain link fence and lockable gate at the south end of Campania Court. This fencing prevents the crossing of the City's existing 0.3 metre reserve abutting Campania Court. With the closure of the construction access on Campania Court, all trucking activities are now restricted to the access from the site to Langstaff Road via Gentile Circle and the maintenance access through the existing storm water management pond as shown on Attachment No.1. The landowner is currently using this access to continue the site clean-up.

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As of September 23, 2015, staff estimates that approximately 50 to 60% of the original stockpile of material has been processed.

MOECC is ensuring proper management of waste material from the phase 2 lands

From the outset, the MOECC has been involved in the clean-up work to ensure proper management and disposal of waste materials arising from the phase 2 lands in accordance with all regulatory requirements. MOECC staff has committed to continue to work with the community, including the City of Vaughan, and the Toronto Region Conservation Authority to ensure that the site is responsibly managed.

In addition, MOECC staff continues to use its enforcement tools to correct non-compliance with Ontario's environmental legislation. In 2013, the MOECC issued Provincial Officer's Orders to the landowner requiring the submission of a waste processing plan, and for all waste to be removed by June 15, 2014. Given the stockpile of material is still on site, the landowner is currently in non-compliance with the Order.

During a recent teleconference, MOECC staff advised that charges have been laid against the landowner in connection with the remediation of the phase 2 lands and that there are additional infractions currently being investigated related to the landowner and the remediation of the site. Ultimately, if remediation does not proceed as previously directed, additional penalties may result from further legal proceedings. MOECC staff also committed to ensure that a Record of Site Condition is not acknowledged for the Phase 2 lands until the requirements of Ontario Regulation 153/04 and the *Environmental Protection Act* is satisfied.

The MOECC Environmental Clean-up Fund cannot be used to clean-up the phase 2 lands if the landowner were to abandon the property.

In public meetings, some community members have inquired about other opportunities for the clean-up of the lands if the landowner does not fulfill his clean-up obligations. In discussions with MOECC, staff was advised that MOECC has an Environmental Clean-up Fund as a contingency fund of last resort to allow the Ministry to resolve serious or urgent environmental contamination problems on private lands which present significant threats to human health or the environment. This fund is not accessible by outside parties. Applications for use of the Environmental Clean-up Fund come from within the Ministry.

MOECC staff advised that the Environmental Clean-up Funding can be applicable when:

- the use of legislative authority (e.g., Director's Order) against the responsible party has not resulted in the required action (i.e., the responsible party refuses or is unable to take the necessary remedial actions); or
- where the party responsible for the contamination cannot be identified or located.

MOECC have also advised that typically all other funding possibilities are exhausted before the Environmental Clean-up Funding is sought. One or more of the following eligibility requirements must be met:

- Provision of alternate water supplies where existing supplies are affected or threatened by a source of contamination;
- Clean-up of areas where environmental damage or health risks are identified;
- Hydrogeological studies of areas where serious contamination is known or expected; and/or
- Actions to remove or reduce potential long-term environmental hazards.

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At this time, based on the ministry's acceptance criteria, the site at 5550 Langstaff Road does not appear to meet the MOECC's eligibility requirements for the Environmental Clean-up Fund.

The phase 2 lands should be cleaned up before any further development approvals are issued by the City

Given the long history of the site and the prolonged period of time that has elapsed since the landowner has been ordered to remediate the site, staff recommend that any further development approvals, including the execution of the subdivision agreement, be considered by the City only after the phase 2 lands are fully remediated and the MOECC has acknowledged the filing of a satisfactory Record of Site Condition for the lands within the plan.

Relationship to Vaughan Vision 2020

This report is consistent with Vaughan Vision 2020, which encourages management excellence through planned and managed growth. This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

Regional Implications

There are no direct Regional implications associated with this report.

Conclusion

The landowner of 5550 Langstaff Road (Ravines of Rainbow Creek Phase 2 Subdivision) has been in the process of remediating the phase 2 lands for a number of years now. Currently, staff estimates that approximately 40 to 50% of the original stockpile of material plus the remaining portions on the western half of the property currently beneath the stockpile still needs to be remediated. The landowner is currently in non-compliance with a Provincial Officer's Order regarding the clean-up of the phase 2 lands and has been charged by the MOECC with infractions related to the works. In addition, MOECC staff advised that there are additional infractions currently being investigated related to the landowner and the remediation of the site.

The construction access to Campania Court was physically closed on September 15, 2015 following the expiration of the City issued Road Cut Permit. Construction access to the phase 2 lands is now restricted to the access from the site to Langstaff Road via Gentile Circle and the driveway around storm water management facility.

Given the long history of the site and the prolonged period of time that has elapsed since the landowner has been ordered to remediate the site, staff recommend that any further development approvals, including the execution of the subdivision agreement, be considered only after the phase 2 lands are fully remediated and the MOECC has acknowledged the filing of a satisfactory Record of Site Condition on the environmental site registry for the lands within the plan.

Attachments

1. Location Map

Report prepared by:

Andrew Pearce, Director of Development Engineering & Infrastructure Planning, Ext. 8255

(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.)



C	<u>6</u>
Item #	<u>20</u>
Report No.	<u>35 (cw)</u>
<u>Council - October 20/15</u>	

DATE: OCTOBER 19, 2015

TO: MAYOR AND MEMBERS OF COUNCIL

FROM: JEFFREY A. ABRAMS, CITY CLERK

RE: 5550 LANGSTAFF ROAD – SITE REMEDIATION UPDATE, RAVINES OF RAINBOW CREEK SUBDIVISION – PHASE 2, PLAN OF SUBDIVISION 19T-12V003, WARD 2 – VICINITY OF LANGSTAFF ROAD AND HIGHWAY 27

At its meeting of October 7, 2015, Committee of the Whole, in considering Item 20 or Report No. 35, "5550 LANGSTAFF ROAD - SITE REMEDIATION UPDATE, RAVINES OF RAINBOW CREEK SUBDIVISION – PHASE 2, PLAN OF SUBDIVISION 19T-12V003, WARD 2 - VICINITY OF LANGSTAFF ROAD AND HIGHWAY 27", included as one of its recommendations to Council that staff report to the Council meeting of October 20, 2015 on the parameters of a potential Task Force to resolve this matter.

Pursuant to Council's Procedural By-law, Task Forces (a form of ad hoc committee) may be established where:

a. there is an absence of staff capacity or expertise on the subject, or there is a particular community of interest with a unique perspective on the proposed mandate;

b. there is a need for information gathering and analysis in order to inform subsequent deliberations at a Standing Committee; and

c. it is feasible to define a specific mandate and time frame for the Ad Hoc Committee to conduct its work. [s. 1.4(2); emphasis added]

Item 20 deals with a situation where some homeowners are affected by the condition of a neighbouring property. The developer of that property cannot further development on the property until certain remediative steps are taken. The interested neighbours are dissatisfied with the steps taken to date, and have been vocal in their criticism of the developer and the City. As is evident from deputations to the item as well as email communications to council and staff, the atmosphere amongst the parties is sometimes heated. There is also the concern that one or more of the parties may take steps to involve the courts or the governing bodies of certain professional staff in order to influence the outcome.

In my opinion there do not exist the appropriate circumstances for the establishment of a task force to inform the deliberations of Council. The matter is operational in nature, and Council's role in administering a solution limited.

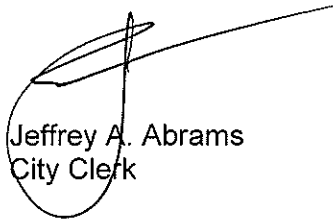
In making the suggestion for the establishment of a Task Force it was my understanding that what was desired as an outcome was improved information flow to assist the residents in being aware of what was transpiring on the neighbouring property in a reasonable manner.



In lieu of setting up a Task Force, it may be more effective to establish periodic meetings between staff and representatives of the parties involved. In doing so the following considerations will support effective communication:

- One representative/spokesperson for the neighbouring homeowners, the developer, the Ministry of the Environment and Climate Change, and the City should be invited to be participants at the meetings
- That the meetings be without prejudice
- That an agenda be set for each meeting, and that the meetings take place during normal business hours
- That where possible, the meetings take place at or near the site
- That legal counsel not be engaged in the meetings
- That the meetings be held monthly during the construction season, and otherwise at times to the mutual satisfaction of the participating parties
- That the meetings be held in the spirit of resolving the outstanding matters and be terminated should the behavior of any of the parties be considered to be uncivil
- That in any event, the meetings terminate upon the full remediation of the site to the satisfaction of the Ministry of the Environment and Climate Change, or upon mutual consent of the active participants.

All of which is respectfully submitted,



Jeffrey A. Abrams
City Clerk

COMMITTEE OF THE WHOLE - OCTOBER 7, 2015

5550 LANGSTAFF ROAD - SITE REMEDIATION UPDATE RAVINES OF RAINBOW CREEK SUBDIVISION – PHASE 2 PLAN OF SUBDIVISION 19T-12V003 WARD 2 - VICINITY OF LANGSTAFF ROAD AND HIGHWAY 27

Recommendation

The Commissioner of Public Works and the Director of Development Engineering and Infrastructure Planning Services, in consultation with the Acting Director of Legal Services, recommend:

1. That the subdivision agreement related to the second phase of the Ravines of Rainbow Creek, Draft Plan of Subdivision 19T-12V003 be executed by the City only after the lands within the Plan have been remediated and a Record of Site Condition has been submitted and acknowledged by the Ministry of the Environment and Climate Change.

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The landowner reportedly began remediating the lands in the second phase of the subdivision in 2010. In 2013, Council approved the draft plan of subdivision (19T-12V003) and associated zoning for the second phase of the development. The landowner is currently in the process of remediating the phase 2 lands.

The landowner is solely responsible for remediating the lands

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At this time, based on the ministry's acceptance criteria, the site at 5550 Langstaff Road does not appear to meet the MOECC's eligibility requirements for the Environmental Clean-up Fund.

The phase 2 lands should be cleaned up before any further development approvals are issued by the City

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Attachments

1. Location Map

Report prepared by:

Andrew Pearce, Director of Development Engineering & Infrastructure Planning, Ext. 8255

Respectfully submitted,

Paul Jankowski
Commissioner of Public Works

Andrew Pearce
Director of Development Engineering
Infrastructure Planning Services

Attachment No 1

