

## **COMMITTEE OF THE WHOLE (WORKING SESSION) – SEPTEMBER 23, 2008**

### **VAUGHAN ART GALLERY**

#### **Recommendation**

The Deputy City Manager/Commissioner of Finance, Commissioner of Legal & Administrative Services/City Solicitor and the Commissioner of Community Services in consultation with the City Manager recommends:

1. That the staff presentation on the proposed collection of artwork and gallery, be received.
2. That a memorandum of understanding be prepared by the City's Legal Department that specifies terms and conditions under which the City would acquire the artwork proposed for donation, including the City's intention to determine within a year's time, the feasibility of establishing a municipal art gallery designed to meet the federal Department of Canadian Heritage's criteria as an accredited "Category A" institution under the Canadian Cultural Property Export and Import Act and to confirm the donors' commitment to the donation of artwork to the City once a gallery is established.
3. That a By-law be enacted to authorize the Mayor and Clerk to execute the memorandum of understanding.
4. That a consultant be retained to conduct a feasibility study within one year's time, to determine the overall capital and operating costs, location, size and other requirements in order to establish an accredited "Category A" gallery in Vaughan under the Canadian Cultural Property Export and Import Act.
5. That \$50,000 to conduct the feasibility study be included in the 2009 Capital Budget for consideration.

#### **Economic Impact**

Should Council approve this initiative, a total of \$50,000 is to be added to the 2009 Capital Budget in order to conduct a feasibility study to establish a municipal art gallery. The capital and operating costs to establish the gallery will be presented to Council as part of the feasibility study report.

#### **Communications Plan**

Any Council resolution resulting from the consideration of this report will be communicated to the representative of the collectors.

#### **Purpose**

The purpose of this report is to respond to Council's request in March 2008 to provide a report back to Council on the feasibility, in principle, of the City establishing the Vaughan Art Gallery in response to the donation of artwork being offered to the City for acquisition.

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

Council at its meeting of March 31, 2008, approved the following recommendation:

1. Council authorize Councillor Tony Carella to commence discussions with the Deputy City Manager/Commissioner of Finance, the Commissioner of Community Services, and the Commissioner of Legal & Administrative Services/City Solicitor, to determine the feasibility, in

principle, of the City of Vaughan establishing the Vaughan Art Gallery and Museum, based on the following framework of assumptions:

- a) That the City of Vaughan would agree to accept the gift (or in some cases the long-term loan) of several collections of Canadian art (sculptures and paintings) from a number of prospective donors who wish to remain anonymous at this time, in return for (in the case of gifts only) a receipt suitable for tax purposes; and
- b) That the City of Vaughan, having accepted these gifts, would agree to ensure their proper storage between the actual receipt of the gifts/loaned items and their being housed on a permanent or long-term loan basis in a location that meets Canadian museum/gallery standards and is open to the public for their viewing of said collections; and,
- c) That the permanent home of the gifts/loaned items would be within, adjacent to, or near the new city hall; and,
- d) That the responsibility for the operation of the art gallery and museum housing the City's collection would be vested in a not-for-profit corporation with a board of directors composed of representatives of the Vaughan arts community, the general public, and the Council of the City of Vaughan; and,
- e) That the aforesaid corporation would be responsible for creating an on-going basis for meeting its own financial requirements, including grants from but not limited to the federal and provincial governments, private foundations, fees, cash or in kind donations and the proceeds of fundraising activities; and
- f) That the agent of the prospective donors would be party to said discussions when appropriate; and,
- g) That this matter would be considered in light of the forthcoming Recreational and Cultural Master Plan.

Subsequently, staff met with the representative of the group of collectors of Canadian art (paintings and sculptures) who have expressed interest in gifting artwork from their personal collections to the City of Vaughan. The representative has identified a number of factors as to the reasons for the proposed donations to the City. They are as follows:

1. The majority of these individual collectors are residents of Vaughan who would like to donate their work to an art gallery governed by their hometown municipality. The collectors are interested in advancing local cultural development in the City of Vaughan through a municipal centre dedicated to the visual arts.
2. The collectors wish to donate their art work to an institution that will be able to exhibit its collection on a frequent basis rather than house it in extended storage. Most large art institutions with thousands of acquisitions, display only a limited percentage of artwork from their permanent collection at any one time and often with less curatorial discretion than that of smaller institutions, such as a municipal art gallery.
3. The tax incentives available for the donation of artwork certified as cultural property to an institution designated by the Department of Canadian Heritage as a "Category A" institution/gallery under the Canadian Cultural Property Export and Import Act.

Additionally, staff have examined representative works from the body of artwork proposed for donation and conducted a preliminary curatorial evaluation, including material research and interviewing commercial art experts who are respected professionals in the fields related to the potential acquisition.

### Curatorial Assessment of Collection

The artwork proposed for donation is comprised of three collecting areas: the first collection area includes approximately 100 pieces of Inuit sculpture; a second collecting area of approximately 150 paintings by artist Giuseppe Pivetta, include many Vaughan scenes that span a period of fifty years; the third collecting area includes up to 50 paintings by a contemporary of the Group of Seven, Peter Clapham Sheppard. In total the City of Vaughan has the opportunity to acquire a collective body of artwork having a current estimated fair market value of \$2 million dollars.

As a whole, the integrity of the artwork proposed for donation to the City of Vaughan in the three collecting areas of Inuit sculpture, Peter Clapham Sheppard paintings and Giuseppe Pivetta paintings, translate to acquisitions of significant Canadian cultural importance. Many of the works in each of the three areas are of outstanding gallery and museum quality.

The representative works being offered to Vaughan were measured against a set of art acquisition criteria to determine their merit as follows:

- a) Works were assessed for their intrinsic curatorial quality by noting factors such as their technical merit, aesthetics, creativity, innovation, and comparison to other works by the same artists and/or their contemporaries.
- b) Works were also evaluated for their suitability for display and interpretation within the context of a public art gallery setting.
- c) Works were assessed on how directly they can be linked to a gallery-specific collection mandate.
- d) Works were assessed for how likely they are to meet Canadian Heritage's criteria of "outstanding significance and national importance" and thus be eligible for certification through the Canadian Cultural Property Export Review Board (CCPERB) for income tax purposes.

The curatorial merit for acquiring works within each of the three collecting area can be summarized as per the following:

#### *Inuit Sculpture Collection*

A number of Inuit artists are represented within this collection of approximately 100 sculptural works. They are among the most recognized and respected in the field (David and Abraham Ruben, Manasie Akpaliapik and Lukie Airut). These established sculptors have amassed impressive portfolios that include representation by major art galleries and museums in Canada and across the world. The growing connoisseurship of corporate and private collectors has led to a renaissance of interest and appreciation for sculpture by these artists.

The quality of a considerable number of sculptures that comprise this collection make them highly deserving of acquisition because they reflect the inherent artistic excellence and cultural importance required to be displayed and interpreted within a public gallery setting. Universal Inuit traditions, values and experiences are well represented by the many fine examples of extraordinary craftsmanship executed by creative storytellers who have mastered the art of animating stone and bone.

Internationally celebrated Inuit sculptors David and Abraham Ruben, Manasie Akpaliapik and Lukie Airut are exhibited and collected by major public galleries (i.e.: Art Gallery of Ontario, Canadian Museum of Civilization, Winnipeg Art Gallery, etc.) and by collectors in Canada and across the world. They are just a few of the noteworthy artists included in this significant repertoire of work

proposed for donation to the City of Vaughan gallery. These top-tier artists are currently being sought after by public art institutions, museums and collectors alike.

#### *Peter Clapman Sheppard Collection*

As an exhibiting contemporary of Tom Thomson and the Group of Seven, Peter Clapman Sheppard's works are on the cusp of greater recognition by major collecting institutions. There is a growing connoisseurship by discriminating collectors who are recognizing Sheppard's works for the artistic merit they deserve on their own accord as well as within the context of his association as a worthy contemporary of the Group of Seven.

Close to 50 Sheppard works representing superb gallery quality are proposed for donation to the City of Vaughan. His landscapes and nudes are deserving of display in a public institution. Of particular relevance to Vaughan, is a work depicting an archival Woodbridge scene. No public art institution has of yet paid sufficient homage to Sheppard by establishing a pivotal collection of his works. By accepting this initial collection, Vaughan has the strategic opportunity to be the first to inspire philanthropic collectors to make additional contributions and therefore establish a rich and comprehensive Sheppard collection under one public art gallery.

#### *Giuseppe Pivetta Collection*

A painter who works "en plein air", Pivetta is best recognized for paintings that capture the nostalgia of downtown Toronto urban street scenes and the idyllic vistas of disappearing rural landscapes. Of particular relevance to Vaughan is the fact that Pivetta has been enamored with local landscapes for decades and has documented many rural settings that have since changed. His landscapes depicting rustic Woodbridge scenes provide a rich tapestry of Canadian/Ontario landscapes.

Available for acquisition is a retrospective collection of 150 of Pivetta's paintings representing over 50 years of achievement by a very competent, painterly artist. His factual compositions capturing everyday scenes of urban and rural landscapes have a universal appeal that will always remain timeless and appeal to audiences.

A recent lifetime acknowledgement of Pivetta's work by the Ontario Society of Artists places him respectably within the provincial community as a senior artist who deserves to be collected by and exhibited in a public art gallery, especially one who has documented archival aspects of Vaughan's history. Like Sheppard, but on a more provincial level, no institution has yet to pay sufficient homage to Pivetta by establishing a collecting area dedicated to his work. Acquiring this impressive collection of Pivetta's paintings provides Vaughan with the unique opportunity to dedicate a collecting area to his work and set the standard for full recognition of this significant artist.

#### *Curatorial Summary*

The curatorial merit of these works as significant examples of Canadian cultural relevance, coupled with the strength of their public appeal, make them well-suited for acquisition in a municipal art gallery and more specifically, the City of Vaughan. Importantly, the exceptional works in each of these three collecting areas should prove eligible to meet Canadian Heritage's criteria of "outstanding significance and national importance" (as required to be designated as cultural property).

Establishing a clearly articulated collecting mandate for a municipal art gallery is a critical first step towards setting the parameters and defining the scope for eligible acquisitions, not only for these works, but also to define what the gallery will be able to collect in the future.

Public Gallery "Category A" Designation under the Cultural Property Export and Import Act

The Cultural Property Export and Import Act came into force in 1977 to encourage and ensure the preservation in Canada of significant examples of cultural, historic and scientific heritage. The Act regulates the import and export of moveable cultural property and provides special tax incentives to encourage Canadians to donate or sell important objects to public institutions in Canada.

The Canadian Cultural Property Export Review Board is an arm's length administrative tribunal that reports directly to the federal Minister of Heritage within the Department of Canadian Heritage. The Board certifies cultural property for income tax purposes. In particular, it is responsible for making determinations with respect to the "outstanding significance and national importance" and the fair market value of objects or collections donated or sold to designated Canadian museums, art galleries, archives and libraries.

The Income Tax Act provides for an exemption from the payment of capital gains taxes on certified cultural property that is donated or sold to designated institutions or public authorities in Canada. This exemption is a tax incentive to encourage donations of certified cultural property to designed institutions and is more advantageous than a typical charitable donation. Certified property is property that has been designated by the Review Board. Donations that result in a certified cultural property tax credit is fully available to a donor to reduce taxable income in the form of a 100% tax credit in the year of donation/designation of cultural property and carried over for up to 5 subsequent years. A charitable donation on the other hand only allows for a tax credit of up to 75% of a taxpayer's net income for one year only.

An institution or public authority must be designated as a "Category A" gallery under the Cultural Property Export and Import Act, at the time the cultural property is certified by the Canadian Cultural Property Export Review Board and at the time that the legal disposition of the cultural property to the institution takes place. For this reason an application for designation may not be made in relations to objects or collections for which the institution has already obtained legal title. It is important, therefore, to obtain gallery "Category A" designation first, followed by obtaining legal title of the donated collection.

The benefits between the designation as a "Category A" institution and an institution issuing a tax receipt depends on the fair market value of the gift of sale, the capital gain realized and the donor's/vendor's financial portfolio. "Category A" designation is granted for an indefinite period of time and applies to the acquisition of any object that falls within the collection mandate of the institution or public authority as defined at the time of designation.

To be considered for "Category A" designation an institution must meet the following criteria:

1. Meet legal requirements for designation (be a non-profit, charitable organization governed by a Board of Directors).
2. Have been in operation for a least one year.
3. Have a primary mandate to collect and preserve any of the following:
  - Objects recovered from soil or water
  - Objects of ethnographic material culture
  - Military objects
  - Objects of applied or decorative art
  - Objects of fine art
  - Scientific or technological objects
  - Textual records, graphic records and sound recording
  - Musical instruments.

4. Have a collection on display and open to the public.
5. Be open on a regular basis and throughout the year.
6. Employ full-time qualified professional staff.
7. Actively acquire property that is likely to meet the criteria of “outstanding significance and national importance”.
8. Have a comprehensive Collection Management policy.
9. Monitor and maintain standards of relative humidity and temperature control, air filtration and lighting/storage area.
10. Have a security policy, safety, fire, and disaster plan.
11. Demonstrate appropriate measures to protect collections from the damaging effects of water, earthquakes and other such emergencies.

#### *Collection Mandate to Achieve “Category A” Designation for the Proposed Vaughan Art Gallery*

In order to be eligible for “Category A” designation, an institution must have a clear collection mandate to collect and preserve items of Canadian cultural importance. This collection mandate governs what the institution is allowed to acquire and accept as gifts. The proposed Vaughan Art Gallery’s collection mandate must be able to integrate the works available for donation in each of the three collecting areas under one acquisition umbrella as well as incorporating a municipal art component that promotes the work of community artists.

In order to achieve this, a proposed municipal gallery for Vaughan may have a collection focus of Canadian art and a special focus on Inuit sculpture, in addition to exhibiting local artists. The gallery’s collection mandate could be positioned as such: “to accept donations or otherwise collect works of Canadian art by Inuit sculptors, Peter Clapham Sheppard, Giuseppe Pivetta and other Canadian artists, provided they are of “outstanding quality.” The related collection development strategy would therefore designate Canadian art as the collecting umbrella for all acquisition areas with a special focus on collecting Inuit sculpture.

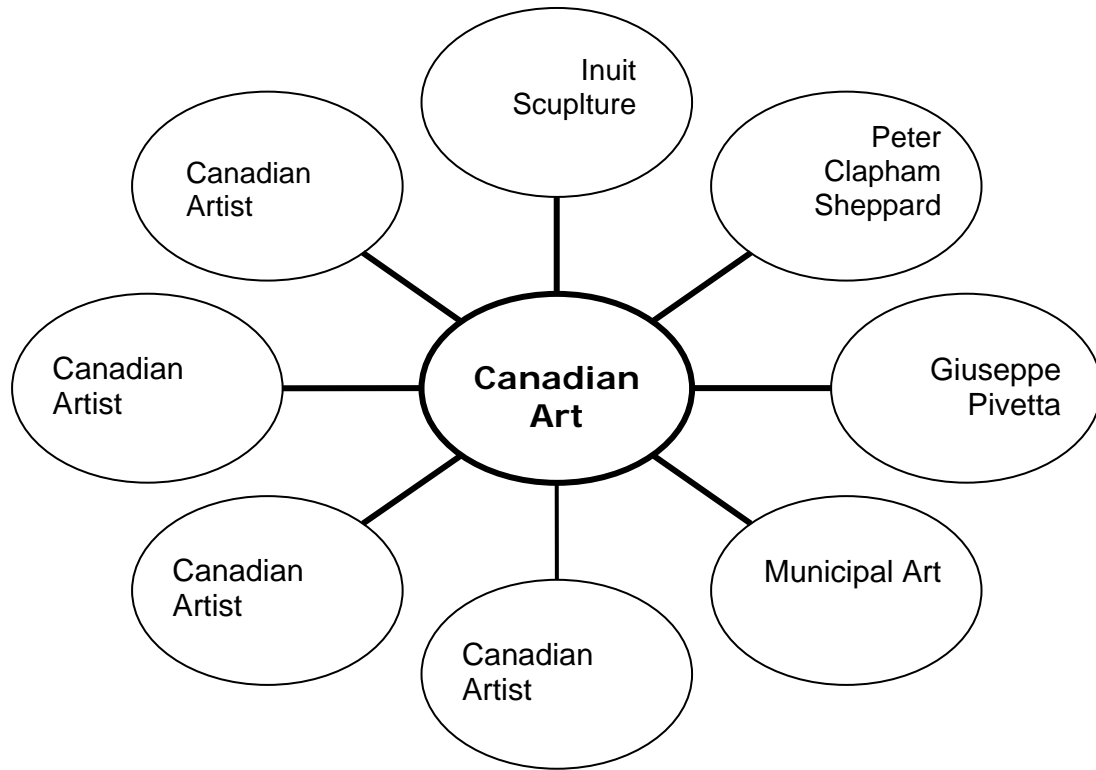
Importantly, by establishing Inuit sculpture as a major collecting focus of a new municipal art gallery’s collection mandate, it may feature Inuit sculpture both inside a formal gallery setting and outside in a sculpture park. This will position Vaughan’s gallery as a unique cultural entity, capable of engaging visitors from within and outside the community. In addition, by concentrating on the media of sculpture, this new gallery could serve to complement the broader Inuit collection housed at the McMichael Canadian Art Collection in Vaughan.

#### *McMichael Canadian Collection & Proposed Vaughan Gallery*

The McMichael boasts a wide ranging Inuit collection that includes paintings, prints, drawings and sculpture. It is proposed the Vaughan Art Gallery reserve its collecting mandate solely to sculpture - so as to enhance and not compete with the collection mandate already established by the provincial art institution. An Inuit collections housed by both institutions could help forge numerous strategic initiatives between the McMichael and the municipal art gallery to offer residents and visitors alike two highly complementary visual art destinations.

The McMichael Canadian Art Collection can collect works by Inuit sculptors; however, it currently has an established Collection Mandate that precludes it from acquiring works by Peter Clapham Sheppard and Giuseppe Pivetta. A Vaughan Art Gallery Collection Mandate would be developed from its inception to acquire works in all three collection areas: namely, Inuit Sculptors, Peter Clapham Sheppard and Giuseppe Pivetta in addition to acquiring works by other Canadian artists.

## Collection Model for Proposed Vaughan Art Gallery



### Collectors/Donors Timeline of Expectations

In order for the City to acquire the proposed collection, the donors through their representative, have proposed the following requirements/timelines as it relates to the donation of the collection and establishment of a “Category A” municipal gallery:

1. By fall 2008, a memorandum of understanding from the City of Vaughan will provide the individual donors an expression of interest in acquiring, in the future, the proposed artwork and identify the City’s intention to determine, within a year’s time, the feasibility of establishing a municipal art gallery designed to meet the federal Department of Canadian Heritage’s criteria as a designated “Category A” institution. The donors will agree to confirm their commitment to the donation of artwork to the City if such a gallery is established.
2. By fall 2009, Council will determine whether it will pursue the establishment of an accredited “Category A” art gallery, and if so, will provide the donors a legally binding agreement outlining the City’s plans to proceed with establishing a federally designated municipal art gallery by the year 2013 coupled with a reaffirmation of the City’s desire to acquire the proposed art donations. The donors will affirm their future donation to the City of the proposed artwork at the time a designated gallery is established and in operation.
3. By fall 2013, the new municipal art gallery in Vaughan would be established, fully operational for at least one year and have met (or be in the final process of meeting within an additional twelve month grace period) all the eligibility criteria set forth by Canadian Heritage for designation as a “Category A” institution. The gallery must first be designated before applications can be submitted to certify the artwork through the Canadian Cultural Property

Export Review Board. Once the municipal gallery in Vaughan receives its designation as a “Category A” institution, the donors will sign Gift Agreements thereby transferring ownership of their work to the gallery to apply for certification as cultural property by the Board and be eligible for tax receipts by Revenue Canada.

### Vaughan Vision 2020 and Active Together Master Plan

*Vaughan Vision 2020* also identifies as a strategic objective the necessity to preserve our heritage and support diversity, arts and culture. As well, the need for a municipal gallery space was identified through the extensive consultation process recently undertaken as part of *Active Together Master Plan for Parks, Recreation, and Culture & Libraries*, as a significant objective to broaden local cultural development. Establishing a gallery will facilitate the promotion of the arts at a professional level and also provide instructive and creative programming to visitors and residents alike. An important requirement in establishing a gallery is having a collection. To this end, the City now has an opportunity to develop a gallery with the donations being offered to the City.

### **Relationship to Vaughan Vision 2020**

In consideration of the strategic priorities related to Vaughan Vision 2020, the report will provide:

- STRATEGIC GOAL:  
Service Excellence - Providing service excellence to citizens.
- STRATEGIC OBJECTIVES:  
Preserve our heritage and support diversity, arts and culture.

This report does not recommend a change from the priorities previously set by Council, however, the necessary resources have not been allocated.

### **Regional Implications**

There are no Regional implications associated with this report.

### **Conclusion**

*The Vaughan Vision 2020 identifies as a strategic objective, the need to develop arts and culture. Additionally, the need for a municipal gallery space was identified in the recently completed Active Together Master Plan for Parks, Recreation, and Culture & Libraries through the public consultation process of the study.*

The proposed collection being offered at this time to the City of Vaughan has a curatorial significance of Canadian cultural importance and would be well-suited in a municipal art gallery. Importantly, the exceptional works in each of the three acquisition areas should prove eligible to meet Canadian Heritage’s criteria of “outstanding significance and national importance” (as required to be designated as cultural property).

The collectors offering artwork to the City are interested in advancing local cultural development in the City of Vaughan. The collectors wish to donate their art work to an arts institution that will be able to exhibit its collection on a frequent basis rather than house it in extended storage as most large art institutions do that can only display a limited percentage of artwork from their permanent collection at any one time. A further incentive to the donors, and an important one, is the tax credits available for the donation of artwork certified as cultural property to an institution designated by the Department of Canadian Heritage as a “Category A” institution/gallery under the Canadian Cultural Property Export and Import Act.



It is therefore recommended that in order to take advantage of the donations being offered to the City, a memorandum of understanding be prepared by the City's Legal Department that specifies terms and conditions, under which the City would acquire the proposed artwork. The memorandum of understanding would identify the City's intention to determine within a year's time the feasibility of establishing a municipal art gallery designed to meet Canadian Heritage's criteria as an accredited "Category A" institution and a decision on whether it will pursue establishing a gallery. The memorandum of understanding would also confirm the donors' commitment to the City. A feasibility study on the project is to determine in the next year, overall capital and operating costs, location, size and other requirements to establish a Vaughan Art Gallery that could be accredited as a "Category A" institution under the Canadian Cultural Property Export and Import Act.

**Attachments**

None

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