



**CITY OF VAUGHAN  
SPECIAL COUNCIL ((PUBLIC MEETING) MINUTES  
NOVEMBER 29, 2004**

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**CITY OF VAUGHAN**

**SPECIAL COUNCIL (PUBLIC MEETING)**

**MONDAY, NOVEMBER 29, 2004**

**MINUTES**

**7:59 P.M.**

Council convened in the Municipal Council Chambers in Vaughan, Ontario, at 7:59 p.m., for the purpose of considering AMENDMENTS TO CITY OF VAUGHAN LICENSING BY-LAW. Notice for the meeting had been provided.

The following members were present:

Mayor Michael Di Biase, Chair  
Regional Councillor Mario F. Ferri  
Regional Councillor Joyce Frustaglio  
Regional Councillor Linda D. Jackson  
Councillor Tony Carella  
Councillor Bernie Di Vona  
Councillor Peter Meffe  
Councillor Alan Shefman  
Councillor Sandra Yeung Racco

**311. CONFIRMATION OF AGENDA**

MOVED by Councillor Carella  
seconded by Regional Councillor Frustaglio

THAT the agenda be confirmed.

CARRIED

**312. DISCLOSURE OF INTEREST**

There was no disclosure of interest by any member.

**313. AMENDMENTS TO CITY OF VAUGHAN LICENSING BY-LAW**

MOVED by Regional Councillor Frustaglio  
seconded by Councillor Carella

THAT Clauses 1 and 3 contained in the following report of the City Clerk, dated November 29, 2004, be approved; and

THAT the deputation of Mr. G.G. Piccin, Piccin & Bottos, 4370 Steeles Avenue West, Suite 201, Vaughan L4L 1Y4, on behalf of Club Pro, be received.

CARRIED

**Recommendation**

The City Clerk, in consultation with the Commissioner of Legal and Administrative Services, the Manager of Licensing and Finance staff, recommends:

- 1) That the deputations and written submissions from the public with respect to the proposed amendments be received;
- 2) That Council provide direction respecting any changes to the amendments; and
- 3) That a By-Law incorporating amendments to Licensing By-Law 2-2001 be brought forward to the Council meeting of December 6, 2004.

**Purpose**

To report on amending the City's Comprehensive Licensing By-Law to ensure compliance with the new licensing provisions of the Municipal Act.

**Background - Analysis and Options**

The last few years have seen unparalleled changes to municipal government in Ontario. Municipalities have been restructured and costs have been downloaded by the Province and municipalities' opportunities to generate revenue have been restricted including municipal licensing. Historically municipal licensing served two purposes: consumer protection and revenue generation. Municipalities will no longer be able to generate revenue from licensing beyond recovering the costs directly related to the issuance of the licenses.

On January 1, 2003, a new Municipal Act, S.O. 2001, C25, hereinafter referred to as the Act, came into effect setting out a new legislative framework for business licensing in Ontario. Section 150 of the Act is the primary licensing section.

Pursuant to section 150 (2) licensing powers must only be exercised for one or more of the stated purposes. These include, health and safety, nuisance control and consumer protection. Sub-section 150 (3) of the Act makes these stated purposes mandatory. A by-law licensing or imposing any conditions on any business or class of business passed after this section comes into force should include an explanation as to why a municipality is licensing it or imposing the condition (s) and how that relates to the purpose referenced under Sub-section 150 (2). Staff have reviewed the various classes of businesses presently being licensed by the municipality and are confident that these classes fall within at least one of the categories listed in Sub-section 150 (2). These purposes have been referenced in the preamble of the Licensing By-law as well as on Schedule "A"

Section 150 (4)(a) of the Act requires that a Council shall, before passing a by-law under this section, except in the case of an emergency, hold at least one public meeting at which any person in attendance may make representation with respect to the matter being considered. Section 150 (4)(b) states that Council shall ensure that notice of the public meeting is given. The public meeting may be held subsequent to the passing of the by-law where a by-law is passed in an emergency situation, however, the notice requirements must be met as soon as practicable after its passage. The public hearing will be held on November 29, 2004 and was advertised in the Liberal on November 11, 2004.

**Activity Costing of Licensing Fees**

Recognizing the impact of the Municipal Act on justifying certain user fees and charges, the Finance department initiated a study to address the impact of the development application approval process which involves building permit and planning fees. In order to be efficient and proactive, the study included an activity costing of licensing fees. This study engaged C.N. Watson, in association with Performance Concept Consulting, to complete the study. Both firms had previous experience in activity costing and in the interpretation of the new Municipal Act. This report addresses the activity costing and user fee justification of the licensing fees. The impact on building permit and planning fees is the subject of a separate report at a later date.

Section 150 (9) of the New Municipal Act imposes limitations on the fees that can be charged in relation to licensing fees and sets the parameters. It states:

“The total amount of fees to be charged for licensing a class of business shall not exceed the costs directly related to the administration and enforcement of the by-law or portions of the by-law of the municipality licensing that class of business.”

The key phrase in the clause is “The total amount of the fees...shall not exceed the costs directly related ...”. However, the interpretation of what is direct cost versus indirect according to the legislation differs from the traditional accounting delineation of direct and indirect costs. The legal interpretation of the “directly related” requirement is that municipalities must be able to draw a straight line from the cost to the licensing fee. This means that if a cost can be linked directly to the administration and enforcement of a license, it will be deemed direct. As such costs for Information Technology, Payroll, Fire Mechanical, Legal, Records Management, Occupancy Costs, etc., would be eligible for inclusion in the justification of the fee. However, general overhead costs such as Council and Commissioners must be excluded according to the new legislation.

The first step in the process was to undertake an exhaustive time sample study identifying direct staff time from specifically involved departments in the processes of administration and enforcement of all licenses. The sampling was completed and the costing has been updated to reflect 2004 salary rates. It should also be noted that the licensing activity costing study, which incorporates the sample study, as well as legislative defined direct related costs, is complete and is the basis for the licensing fees requiring approval in this report. In the activity costing study, the departmental direct related time study involvement, as well as the departmental allocated costs such as By-law, and the initial and renewal volumes are based on assumptions from the Licensing department.

In addition, the consultants advised that the activity costing meets legislation in that the selected cost objects meet the case law reasonableness test for Part X11 of the Act, user fee costing. They have further advised that the costing design promotes both legislation compliance and the justification of individual licensing fees.

Schedule “A” in Appendix I sets out the fees for new applications and renewals thereof. The costing model used to arrive at these fees has taken into account all costs across the corporation that can reasonably be attributed to the cost of administering and enforcing a license. To ensure the accuracy of licensing fees, sampling updates will take place periodically throughout 2005 to ensure costing information is kept up to date.

### **Renewal Process**

In order to streamline the process for the renewal of licenses and to eliminate the high volume presently being experienced by staff in June and December when the majority of licenses come up for renewal, staff is proposing to spread out renewal dates throughout the year. By so doing, staff will be able to provide a more efficient service to licensees. Staff is proposing that all non-vehicular licenses be renewed by March 31 of every year. With respect to vehicular licenses, staff is proposing various dates for renewal. In these cases, renewal dates align themselves or are close to renewal dates in other municipalities in which licensees hold licenses. This will assist licensees in their renewal processes. Attached as Schedule “G” are the proposed renewal dates.

Section 150 (13) of the Act causes a by-law passed under the Act to expire 5 years after it comes into force or on the day it is repealed, whichever comes first. Amendments to a by-law licensing a business does not affect the term of the by-law. The present licensing by-law was enacted on January 15, 2001. Accordingly, a new by-law will need to be enacted no later than January 15, 2006.

Section 158 of the Act establishes a requirement that the municipality maintain a list for public inspection indicating those businesses that require licensing and the license fees to be charged for each class of business. In addition, the list shall identify the cost of administering and enforcing the business licensing by-law with respect to each class and how the amount of the business-licensing fee is calculated. Attached, as Appendix II, is a copy of the list.

It is staff’s opinion that those sections presently in the licensing by-law relating to firework permits, filming permits, outdoor exhibitions, special events and newspaper boxes do not fall within any of the

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categories listed under Section 150 (2) of the Act. Accordingly, it is recommended that these sections be deleted from the present licensing by-law and re-enacted as self-standing by-laws.

### **Relationship to Vaughan Vision 2007**

This report is consistent with the priorities previously set by Council and the necessary resources have been allocated and approved.

### **Conclusion**

Council's approval of the recommended amendments to the Licensing By-Law will ensure compliance with the Municipal Act regulations applicable to the licensing of businesses in the municipality.

### **Attachments**

Appendix I – Table of Changes  
Appendix II – Fee Summary  
Schedule A – Annual Fees for Application for Licenses and Renewal of Such Licenses  
Schedules C1, C2, D1, D2, E1, E2 – Subject Lands  
Schedule F- Wheelchair Sign  
Schedule G – Renewal and Expiry Dates

### **Report prepared by:**

Joseph A. V. Chiarelli  
Manager Special Projects & Licensing  
Insurance-Risk Management

(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.)

### **314. CONFIRMING BY-LAW**

MOVED by Regional Councillor Ferri  
seconded by Regional Councillor Frustaglio

THAT By-law Number 342-2004, being a by-law to confirm the proceedings of Council at its meeting on November 29, 2004, be read a First, Second and Third time and enacted.

CARRIED

### **315. ADJOURNMENT**

MOVED by Councillor Carella  
seconded by Councillor Jackson

THAT the meeting adjourn at 8:11 p.m.

CARRIED

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Michael Di Biase, Mayor

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Sybil Fernandes, Deputy City Clerk