



**CITY OF VAUGHAN  
SPECIAL COUNCIL MINUTES  
MAY 12, 2009**

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**CITY OF VAUGHAN**  
**SPECIAL COUNCIL MEETING**

**TUESDAY, MAY 12, 2009**

**MINUTES**

**±6:00 P.M.**

Council convened in the Municipal Council Chambers in Vaughan, Ontario, at 6:56 p.m.

The following members were present:

Regional Councillor Joyce Frustaglio, Chair  
Regional Councillor Mario F. Ferri  
Regional Councillor Gino Rosati  
Councillor Tony Carella  
Councillor Peter Meffe  
Councillor Sandra Yeung Racco

**92. CONFIRMATION OF AGENDA**

MOVED by Councillor Carella  
seconded by Regional Councillor Ferri

THAT the agenda be confirmed.

CARRIED

**93. DISCLOSURE OF INTEREST**

There was no disclosure of interest by any member.

**94. ADDENDUM TO COMPLIANCE AUDIT REPORT – BERNIE DI VONA**  
(Item 31, Committee of the Whole Report No. 27)

MOVED by Councillor Carella  
seconded by Regional Councillor Ferri

That the following recommendation of the Committee of the Whole meeting of May 12, 2009, be approved:

The Committee of the Whole recommends:

- 1) That the following recommendation of the City Clerk, dated May 12, 2009, be approved; and
- 2) That the written submission of Mr. Eric K. Gillespie, Eric K. Gillespie Professional Corporation, Barrister & Solicitor, 10 King Street East, Suite 600, Toronto, M5C 1C3, dated May 12, 2009, be received.

CARRIED

**Recommendation**

The City Clerk recommends:

- 1) That the Addendum to the Compliance Audit Report for the 2006 election campaign finances of Bernie Di Vona be received.

**Economic Impact**

Not applicable.

**Communications Plan**

Not at this time.

**Purpose**

The purpose of this report is to present the Addendum to the Compliance Audit Report for Bernie Di Vona to the Committee of the Whole.

**Background - Analysis and Options**

On November 10, 2008 Council appointed Mr. Ken Froese and Mr. Glen R. Davison to conduct the compliance audit of the campaign finances for the 2006 Municipal Election of Bernie Di Vona.

The Audit Report was received by the City Clerk on April 24, 2009, and was formally received by Council on May 5, 2009. At its meeting of May 5, 2009, Council also directed staff to obtain a legal opinion from external counsel, and to call a Special Council meeting for +/- 6:00 p.m. on May 12, 2009 for the purpose of considering matters related to the compliance audit report.

On May 8, 2009, the City Clerk received an Addendum to the Compliance Audit Report for Bernie Di Vona, which is now placed before Council for formal receipt. This report will also be before Council at its Special Meeting called for +/- 6:00 p.m. on May 12, 2009.

**Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council.

**Regional Implications**

N/A

**Conclusion**

A decision in this matter must be made within 30 days of the initial receipt of the audit report. Given that the 30<sup>th</sup> day falls on a weekend, a decision in this matter should be made by Friday, May 22, 2009.

**Attachments**

Attachment 1 Addendum to Compliance Audit Report for the City of Vaughan  
Re: Bernie Di Vona, dated May 8, 2009

**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.)

**95. LEGAL ADVICE  
COMPLIANCE AUDIT REPORT – BERNIE DI VONA**

(Item 4, Committee of the Whole (Closed Session) Report No. 28)

MOVED by Regional Councillor Rosati  
seconded by Regional Councillor Ferri

That the following recommendation of the Committee of the Whole (Closed Session) meeting of May 12, 2009, be approved:

The Committee of the Whole (Closed Session) recommends:

- 1) WHEREAS Council has received, reviewed, and considered the Report of Ken Froese and Glen R. Davison dated April 24, 2009, being the Compliance audit Report regarding the 2006 municipal election campaign finances of Bernie Di Vona, as well as the Addendum dated May 8, 2009;

AND WHEREAS the Compliance Audit Report has identified numerous apparent contraventions of the *Municipal Elections Act*, regarding the election campaign finances of Bernie Di Vona;

AND WHEREAS Council has received and considered the legal advice of Timothy J. Wilkin, the City's external legal counsel retained to provide independent advice in this matter;

AND WHEREAS the obligation to commence legal proceedings in respect of such contraventions under the *Municipal Elections Act* falls to Council;

NOW THEREFORE THE COUNCIL OF THE CITY OF VAUGHAN RESOLVES AS FOLLOWS:

1. That Timothy J. Wilkin of Cunningham, Swan, Carty, Little & Bonham LLP be provided the authority to lay charges against Bernie Di Vona under the *Municipal Elections Act*, 1996; and
2. That Mr. Timothy J. Wilkin be retained to conduct the prosecutions and to proceed in a timely manner; and
3. That the charges to be laid shall be those for which reasonable and probable grounds exist for believing that an offence has been committed, as may be determined in the legal opinion of Timothy J. Wilkin; and
4. That the retainer includes instructions that Timothy J. Wilkin have the authority, in his sole discretion:
  - i) to withdraw any charge, or charges, against Bernie Di Vona if, in his opinion, the available evidence in respect of a charge or charges does not provide a reasonable likelihood of obtaining a conviction; and

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- ii) to conduct any pre-trial or trial proceedings necessary, and to summon such witnesses as may be required including, if necessary, the retaining of experts to appear as witnesses; and
  - iii) to enter into negotiations with respect to the charges for the purposes of establishing an agreed statement of facts, a plea bargain and/or a joint submission to the Court in respect of penalty; and
  - iv) to enter into a binding plea bargain agreement; and
  - v) to establish what penalty to seek from the Court upon a conviction; and
  - vi) to provide regular status reports to the City Solicitor for her information; and
- 2) That the confidential memorandum of the Commissioner of Legal and Administrative Services and City Solicitor, dated May 8, 2009, be received.

CARRIED UNANIMOUSLY UPON A RECORDED VOTE

YEAS

NAYS

Councillor Carella  
Regional Councillor Ferri  
Regional Councillor Frustaglio  
Councillor Meffe  
Councillor Yeung Racco  
Regional Councillor Rosati

**96. CONFIRMING BY-LAW**

MOVED by Councillor Meffe  
seconded by Councillor Carella

THAT By-law Number 97-2009, being a by-law to confirm the proceedings of Council at its meeting on May 12, 2009, be read a First, Second and Third time and enacted.

CARRIED

**97. ADJOURNMENT**

MOVED by Councillor Yeung Racco  
seconded by Regional Councillor Rosati

THAT the meeting adjourn at 7:03 p.m.

CARRIED

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Regional Councillor Joyce Frustaglio  
Acting Mayor

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Jeffrey A. Abrams, City Clerk