

COMMUNICATIONS

Distributed May 20, 2011

		Report No.	Item No.	Committee
C1.	Mr. Simon Strelchik, dated May 11, 2011, and petition dated April 14, 2011.	25	37	Committee of the Whole
C2.	Memorandum from the Commissioner of Engineering & Public Works, dated May 13, 2011.	25	19	Committee of the Whole
C3.	Memorandum from the Commissioner of Engineering & Public Works, dated May 13, 2011.	25	20	Committee of the Whole
C4.	Memorandum from the Senior Manager of Real Estate, dated May 17, 2011.	By-law 71-2011		
C5.	CONFIDENTIAL Memorandum from the Director of Legal Services, dated May 18, 2011. <i>Members Of Council Only</i>	25	12	Committee of the Whole
C6.	Memorandum from the Director of Legal Services, dated May 19, 2011.	By-law 81-2011		
C7.	Memorandum from the Director of Legal Services, dated May 19, 2011.	By-law 80-2011		
C8.	Memorandum from the Commissioner of Community Services, dated May 18, 2011.	25	27	Committee of the Whole
C9.	CONFIDENTIAL Memorandum from the Director of Legal Services, Director Parks Development and the Senior Manager of Real Estate, dated May 19, 2011. <i>Members Of Council Only</i>	26	6	Committee of the Whole (Closed Session)
C10.	Memorandum from the Commissioner of Engineering and Public Works, dated May 18, 2011.	25	6	Committee of the Whole
C11.	Memorandum from the Commissioner of Engineering and Public Works, dated May 18, 2011.	25	5	Committee of the Whole
C12.	Memorandum from the City Manager, dated May 19, 2011.	29	4	Committee of the Whole (Working Session)

Distributed May 24, 2011

C13	Mr. Frank Greco, dated May 23, 2011.	13	5	Finance and Admin. Committee
C14	Memorandum from the Director of Financial Services, dated May 17, 2011.	13	2	Finance and Admin. Committee
C15	Mr. Gino Ruffolo, dated May 24, 2011.	29	4	Committee of the Whole (Working Session)

Please note there may be further Communications.

Subject: Deputation to Vaughan Council
Attachments: Petition Regarding Ball Hockey.JPG

C 1
 Item # 37
 Report No. 25 CW
COUNCIL - May 24, 2011

From: Simon Strelchik [mailto:simonstrelchik@gmail.com]

Sent: Wednesday, May 11, 2011 11:43 PM

To: Abrams, Jeffrey

Cc: Bevilacqua, Maurizio; Rosati, Gino; Di Biase, Michael; Schulte, Deb; Iafrate, Marilyn; Carella, Tony; DeFrancesca, Rosanna; Racco, Sandra; Shefman, Alan; Ciafardoni, Joy; DeBuono, Michelle; Barbieri, Enza; Panicali, Adele; Ciampa, Gina; Tarantini, Maria; Cardile, Lucy; Tamburini, Nancy; Furfaro, Cindy; Traub, Debi

Subject: Re: Deputation to Vaughan Council

Dear Mr. Abrams,

Please find attached our petition.

Sincerely,
 Simon Strelchik

Wed, May 11, 2011 at 1:38 AM, Simon Strelchik <simonstrelchik@gmail.com> wrote:

Hello Vaughan Council members, please see below from the deputation today to the City of Vaughan Committee of the Whole. I can be reached at simonstrelchik@gmail.com or 416-827-6734. All signatories of the petition are residents of Vaughan, and the copy with home addresses will be forwarded to Mr. Abrams. Thank you. Simon

My name is Simon Strelchik and I have a petition. This petition, signed by participants in this program, reads: "Reinstate Ball Hockey. Whereas community sports such as ball hockey improve the vitality of communities and encourage support and camaraderie in the city of Vaughan; Whereas ball hockey is a true Canadian sport that should be encouraged to flourish; Whereas the City of Vaughan encourages the recreational use of its space; And whereas a devoted group of ball hockey players have played at Garnet A. Williams Community Centre on Thursday evenings for many years; We the undersigned petition the City of Vaughan as follows: "To reinstate the ball hockey program at Garnet A. Williams Community Centre as normally scheduled on Thursday evenings from 8:30pm to 10:30pm."

I have been playing ball hockey at the City of Vaughan (first at Dufferin Clark Community Centre and then Garnet A. Williams Community Centre) for more than 12 years. Recently, the City informed us that they are cutting the ball hockey program at Garnet Williams that runs Thursdays from 8:30-10:30pm. In light of the City's initiatives to combat crime and idleness, this program, which includes many young men aged 18 to 24 from Vaughan, must be reinstated.

The community has been using the program for many years at a steady rate. On average, this is 12 players, which is the maximum amount of players in this program as advertised by the City of Vaughan in their Recreation Guide. However, there have been some problems with staff, and this accounts for, on some days, a lack of tickets being bought. When the decision was made by Lorne Hilts, Recreation Services Supervisor at Garnet, to cut the program, it

was because it appeared to him that there was a lack of participation in the program, and inaccurate assumption. It was Mr. Hilts' decision to replace our hockey program with a Zumba program.

According to Mary Reali, Vaughan Director of Recreation and Culture, this Zumba program appeals to women in their 30s, a different demographic than those drawn to the ball hockey program. In light of the deputation made earlier this afternoon by Superintendent Cusimano of York Regional Police, where he asserts that community crime prevention includes both a police presence and support from the community, what are we saying to young people when we cut the few programs available to them?

We have been working at resolving this problem with staff, however have not come to a resolution. Mr. Hilts and Ms. Reali offered to rent out the facility to us on a different day, at a rate of \$80 a week, but this would mean 16 players would have to play to keep the cost at \$5.29 a person as it is at present, and that would also mean too many players waiting to play in the gymnasium (only 8 players plus 2 goalies can play at any given moment) and that somebody would have to be responsible for collecting the money and for any losses that may occur. Staff has also suggested hosting the game at another facility on Thursday nights, at Rosemount Community Centre, but the high school adjoining to the Community Centre does not permit hockey sticks in the gymnasium (even though it is a City-owned community centre).

Mr. Hilts also offered to host our games on Friday evenings or Sunday afternoon, however our goalies cannot make it for those times as they have family obligations. The game cannot operate without goalies, and players will not come to play if newly trained or inexperienced players are in net. Then furthermore is the issue of finding goalie equipment, which costs hundreds of dollars to purchase and that the City does not provide to the program. The only day that works is Thursdays, in the evening.

Regarding the lack of tickets being bought on some days, this has to do with firstly, cash money being received from players directly by staff complement in pocket, and the staff complement did indeed received a severe reprimand for this from the Garnet management, and secondly, a lack of enforcement on the part of staff of the rules regarding purchasing tickets. This should not reflect a lack of participation in the program as there is a healthy amount of participation on a weekly basis.

For all of these reasons, including most importantly the crime prevention aspect, we have petitioned the City of Vaughan for recourse and require the reinstatement of this program on Thursday nights at Garnet A. Williams Community Centre for the fall.

Reinstate Ball Hockey - April 14th 2011

Whereas community sports such as ball hockey improve the vitality of communities and encourage support and camaraderie in the City of Vaughan;

Whereas ball hockey is a true Canadian sport that should be encouraged to flourish;

Whereas the City of Vaughan encourages the recreational use of its space;

And whereas a devoted group of ball hockey players have played at Garnet A. Williams Community Centre on Thursday evenings for many years;

We the undersigned petition the City of Vaughan Council as follows:

“To reinstate the ball hockey program at Garnet A. Williams Community Centre as normally scheduled on Thursday evenings from 8:30pm to 10:30pm.”

Name	Address	Municipality	Signature	Date
Edan Fregel	130 Garquin Ave	Vaughan		April 14/2011
David Mosquera	2 Caplans Court	Concord		April 14, 2011
Steve Bafelho	126 Cherry Hills Rd	concord		Apr 14, 2011
Kenny Kabanowsky	31 KARL CT	VAUGHAN		APR 14 2011
Jack Fudrade	1h7 Fisher Lane	Vaughan		April 14/11
Bruno Coelho	100 Vaughan Blvd	Vaughan		Apr. 14/11
Gerry Small	144 Forest Lane	Vaughan		April 14/11
ROB DELUCA	137 CARL TENNENT	VAUGHAN		APR 14 11
MIKE GEOROVICH	60 DISEN DRIVE	THORNHILL		APR 14/11
Frank Granata	109 Judith Ave	Thornhill		APR 14/11
Pompidge Morra	105 Judith Ave	Thornhill		apr 14/11
Baraa Petros	90 Summeridge	Thornhill		Apr 14/11
Dave Coelho	23 Rockview	Thornhill		Apr 14/11
Phil Coelho	23 Rockview	Thornhill		Apr 14/11



memorandum

c 2
Item # 19
Report No. 25 CW
COUNCIL - May 24, 2011

DATE: May 13, 2011
TO: Mayor Bevilacqua and Members of Council
FROM: Bill Robinson, P. Eng., Commissioner of Engineering & Public Works
RE: **COUNCIL MEETING - MAY 24, 2011**
AWARD OF TENDER – T11-027
REMOVAL OF SEDIMENTS & IMPROVEMENT OF STORM WATER
MANAGEMENT POND NO. 15 AND POND NO. 105

Recommendation

The Commissioner of Engineering and Public Works, in consultation with the Director of Purchasing Services, and the Director of Reserves & Investments, recommends that:

1. Tender T11-027 for the cleaning of storm water management pond No. 15, and storm water management pond No. 105, be awarded to D.D.R. Landscape Contractors Ltd. of Oakville, Ontario;
2. A contingency allowance in the amount of \$16,000 (excluding H.S.T.), be approved, within which the Commissioner of Engineering and Public Works, or his designate, is authorized to approve amendments to the contract; and,
3. That the Mayor and Clerk be authorized to sign the necessary documents.

Contribution to Sustainability

The removal of sediment from storm water management pond #15 and pond #105 is essential to the sustainability of the City's infrastructure, and overall storm water management.

Economic Impact

Capital Funds to cover the cost of the removal of sediments & improvements of storm water management pond #15 are allocated from Project PW-2002-07 and from Pond #105 are allocated from Project PW-2008-07.

The bid price submitted by the low bidder, D.D.R. Landscape Contractors Ltd., is \$146,897.50 excluding HST. The total cost of the project is \$160,000 and is within the approved budget amount.

Communications Plan

Residents who reside in the areas of the ponds will be notified prior to commencement of work.

Purpose

The purpose of this report is to award Tender T11-027, for removal of sediments and improvements of storm water management pond #15 and storm water management pond #105.

Background - Analysis and Options

Removal of sediment from storm water management ponds #15 and #105 is required to mitigate the impact of sediment on the downstream receiving watercourse. It is also required to ensure that adequate storage is maintained in the storm water management facilities at all times, as required by the design.

As per the Committee report, a tender was called for these services. Due to delays in obtaining references and completing other background checks, the results of the tender award were not ready to be presented at the May 10, 2001, Committee of the Whole meeting.

Tender T11-027 was advertized on DCN, the City page, Biddingo, and the OPBA website. Twenty-one bid documents were picked up. Eleven bids were received, and one was deemed non-compliant.

The following are the results of the tender:

Contractor / Bidder	Bid Amount
D.D. R. Landscape Contractors Ltd.	\$165,994.17
Hollandia Land & Environmental Solutions	\$174,076.50
Sierra Excavating Enterprises Inc.	\$263,784.38
Aim Environmental Group Inc.	\$429,106.20
North Gate Farms Ltd.	\$434,456.75
Mada Holdings Inc.	\$463,740.70
Iron Trio Inc.	\$494,796.49
Alcam Excavating Limited	\$553,813.00
K.J. Beamish Construction Co. Limited	\$570,548.30
Dynex Construction Inc.	\$611,087.05
Varcon Construction Corporation	\$646,809.74

The estimated cost for this project including all applicable taxes is \$160,000 and is calculated as follows:

Tender Price (not including HST)	\$146,897.50
Non rebatable portion of HST (1.76%)	2,585.40
Subtotal	\$149,482.90
Expenses to date (sediment testing)	<u>5,523.58</u>
Subtotal	\$155,006.38
3% Administration	<u>4,650.19</u>
Total Cost	\$159,656.57
Rounded	<u>\$160,000</u>

Staff have checked the bids for mathematical errors, and have also completed the necessary reference checks. Staff are satisfied that the low bidder is capable of doing this work.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council and ties into the following Vaughan Vision 20/20:

Goal: Service Excellence
 Objective: "Lead and Promote Environmental Sustainability"

Goal: Management Excellence
 Objective: "Maintain Assets & Infrastructure Integrity"



memorandum

Regional Implications

N/A

Conclusion

Based on the bid prices submitted, it is recommended that Tender T11-027 removal of sediments and improvement of storm water management pond #15 and storm water management pond #105, be awarded to D.D.R. Landscape Contractors Ltd.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Bill Robinson'.

Bill Robinson, P. Eng.
Commissioner of Engineering & Public Works

BTA/



memorandum

DATE: May 13, 2011
TO: Mayor Bevilacqua and Members of Council
FROM: Bill Robinson, P. Eng., Commissioner of Engineering & Public Works
RE: **COUNCIL MEETING - MAY 24, 2011**
AWARD OF TENDER - T11-168
SIDEWALK JOINT DEFLECTION REMOVAL

c. 3
Item # 20
Report No. 25 CW
COUNCIL - May 24, 2011

Recommendation

The Commissioner of Engineering and Public Works, in consultation with the Director of Purchasing Services, and Director of Reserves and Investments, recommends that:

1. Tender T11-168 for sidewalk joint deflection cutting/removal be awarded to Sidewalks Plus Ltd.; and
2. The Mayor and Clerk be authorized to sign the necessary documents.

Contribution to Sustainability

The removal of sidewalk trip hazards from City-wide concrete walkways is essential to sustain this infrastructure in a safe manner. This contributes to the safe movement of the travelling public, thereby mitigating the City's liability concerns.

Economic Impact

Project PW-2012-07 funds City-wide damaged/displaced sidewalk joint deflection cutting/removal program as well as the curb & sidewalk repair and replacement program. The 2011 approved Capital budget for these activities is \$1,220,000.00.

T11-168 is for a one year period, with two, one year extensions. These extensions are at the City's sole discretion to award, and are based on satisfactory performance reviews. The 2011 contract value is estimated to be \$182,500 excluding taxes. The contract contains provisions noting that the work in any given year is contingent upon funding being approved.

There are sufficient funds in the capital account to cover this work and the sidewalk replacement/repair work as well. As the two activities are funded under a single project number, staff will monitor the quantities to ensure the combined expenditures remain within budget.

Communications Plan

N/A

Purpose

The purpose of this report is to award Tender T11-168 for sidewalk joint deflection and cutting/removal.

Background - Analysis and Options

Sidewalk trip edges throughout the City are inspected annually and a list of the repair locations is established on a priority basis.

The joint deflection program was initiated by the Public Works Department a number of years ago to address the increasing number of trip edges that occur due to frost heaving and heat related sidewalk lifting. The work involves the removal of trip edges by saw cutting the joints flush, thereby eliminating potential liability claims. The Province's new Minimum Maintenance Standards now include standards for repairing/eliminating trip edges on sidewalks.

Tender T11-168 was advertised on the City Page, Bidding, and the OPBA website. Three bid documents were picked up, and one bid submitted as follows:

Contractor / Bidder	Bid Price (exc. taxes)
Sidewalks Plus Ltd.	\$182,500

Staff have reviewed the bid for mathematical errors. This contractor has performed this work for the City for the past few years, with very good results. Prices submitted in this tender are in line with costs incurred for this work in previous years.

The estimated cost for this project including all applicable taxes is \$192,000 and is calculated as follows:

Tender Price (not including HST)	\$182,500.00
Non rebatable portion of HST (1.76%)	3,212.00
Subtotal	<u>\$185,712.00</u>
3% Administration	5,571.36
Total Cost	<u>\$191,283.36</u>
Rounded	<u>\$192,000</u>

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities previously set by Council, specifically the following Vaughan Vision's Goals and Objectives

Goal: Service Excellence
 Objective: Pursue Excellence in Service Delivery
 Objective: Enhance and Ensure Community safety, Health & Wellness

Goal: Management Excellence
 Objective: Maintain Assets and Infrastructure Integrity

Regional Implications

The work covered under this program does involve joint deflection removal on sidewalks located on Regional roads; however, there are no other implications to the Region as a result of this upcoming tender award.



memorandum

Conclusion

Tender T11-168 for sidewalk joint deflection removal program closed on May 12, 2011. Based on the bid price submitted, and the fact that the company has successfully performed this work for the City previously, it is recommended that tender T11-168 be awarded to Sidewalks Plus Ltd.

Attachments

N/A

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Bill Robinson', written over a faint, larger version of the same signature.

Bill Robinson, P. Eng.
Commissioner of Engineering & Public Works



memorandum

DATE: May 17, 2011
TO: Mayor and Members of Council
FROM: Liana Haughton
RE: Lease with Bellshire Woods Estates Inc. – 70 Tigi Court

C 4
BY-LAW
71-2011
COUNCIL - May 24, 2011

On January 26, 2010, Council enacted By-law No. 6-2010 to authorize a lease between the City and Bellshire Woods Estates Inc. for a gross leasable area of 6,200 square feet.

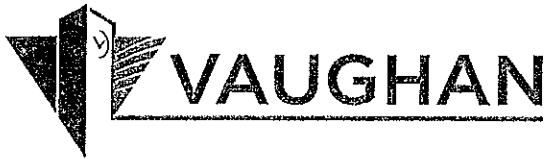
On June 18, 2010, the City received a copy of the Surveyor's Certificate from Bellshire Woods Estates indicating the gross leasable area is actually 6,740 square feet.

An amending by-law has been placed on the agenda for May 24, 2011, to revise the gross leasable area to 6,740 square feet.

Should you have any questions, please call me at Ext 8473.

Liana Haughton
Senior Manager of Real Estate

- c. Clayton Harris, City Manager
Janice Atwood-Petkovski, Commissioner of Legal and Administrative
City Solicitor
Heather A. Wilson, Director of Legal Services



memorandum

Date: May 19, 2011
To: Mayor and Members of Council
From: Heather A. Wilson
Director of Legal Services
Re: Noise By-law Exemption
Toronto York Spadina Subway Extension

C. 6
BY-LAW
81-2011
COUNCIL - May 24, 2011

On June 29, 2010, Council authorized a Noise By-law Exemption for the Toronto York Spadina Subway Extension from 7:00 p.m. to 7:00 a.m., Monday through Saturday, however the exemption is required for Sundays as well. Accordingly, a draft by-law has been placed on the Council Agenda for May 24, 2011 to grant the required Noise By-law exemption for the duration of the Toronto York Spadina Subway Extension project.


Heather A. Wilson
Director of Legal Services

HAW/gg

Copy to: Clayton D. Harris
City Manager

Janice Atwood-Petkovski
Commissioner of Legal and
Administrative Services and City Solicitor

Bill Robinson
Commissioner of Engineering & Public Works



memorandum

C. 7
BY-LAW
80-2011
COUNCIL - May 24, 2011

Date: May 19, 2011
To: Mayor and Members of Council
From: Heather A. Wilson
Director of Legal Services
Re: SRF Vaughan Property 2 Inc., Ward 2
19T-08V03
Conveyance of Land to City for Laneway

On April 5, 2011, Council approved Draft Plan of Subdivision 19T-08V03, attached, showing a private laneway through the Hydro Corridor to connect with Innovation Drive. Draft Plan conditions #33 and #68 provide for the conveyance of land from Ontario Realty Corporation to the City for the road.

The conveyance is ordinarily provided for in the subdivision agreement, however it has not yet been completed, and the conveyance must be completed by June 10, 2011 pursuant to ORC's authority.

Accordingly, a Draft by-law has been placed on the Council Agenda for May 24, 2011 to authorize the execution of the Agreement of Purchase and Sale with ORC and to authorize the conveyance to the City. The owner is responsible for all costs related to the transfer.

A handwritten signature in cursive script, appearing to read 'Heather A. Wilson'.

Heather A. Wilson
Director of Legal Services

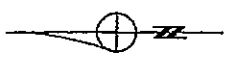
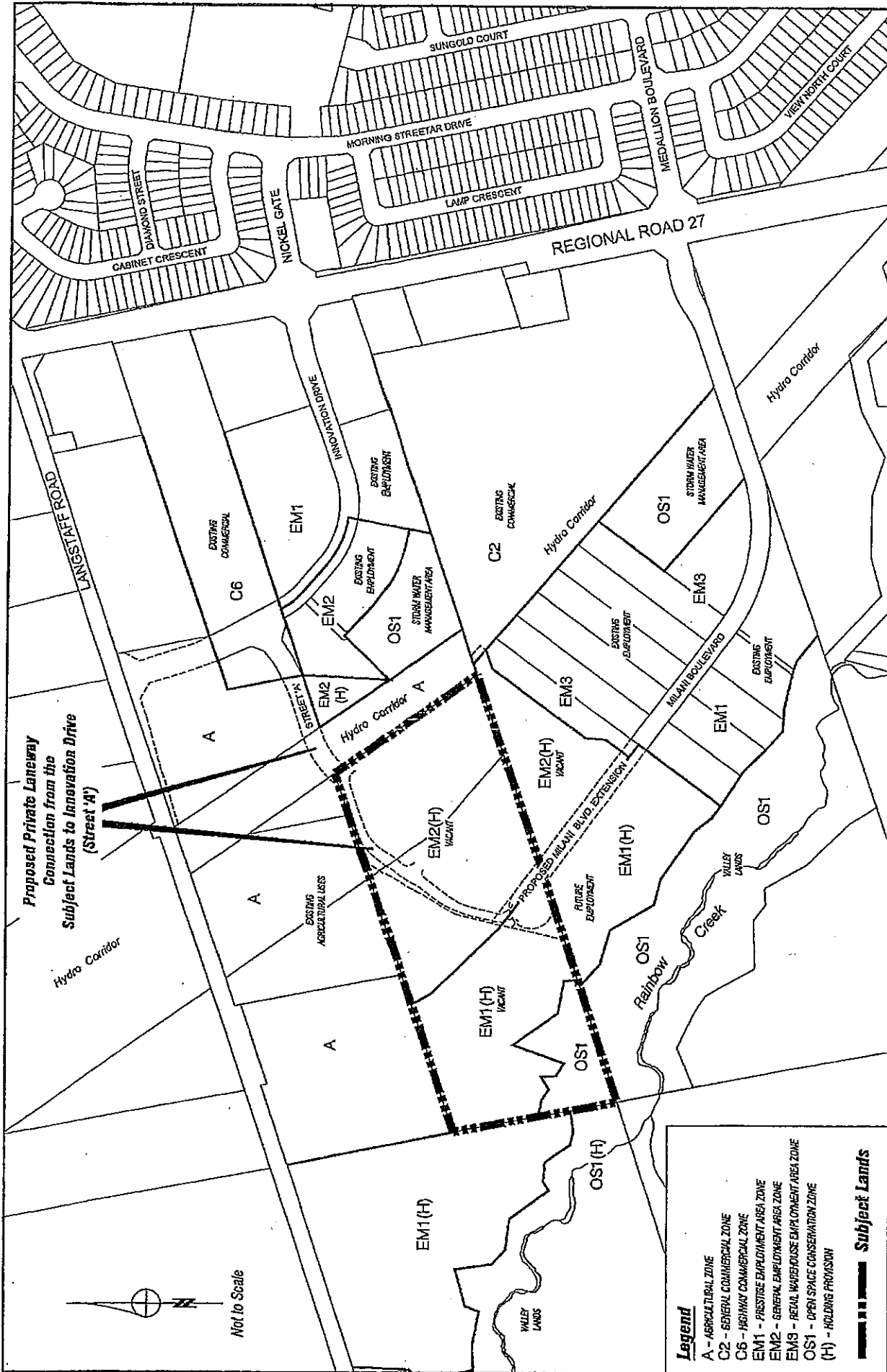
HAW/gg

Copy to: Clayton D. Harris
City Manager

Janice Atwood-Petkovski
Commissioner of Legal and
Administrative Services and City Solicitor

Bill Robinson
Commissioner of Engineering & Public Works

Liana Haughton
Senior Manager of Real Estate



Not to Scale

- Legend**
- A - AGRICULTURAL ZONE
 - C2 - GENERAL COMMERCIAL ZONE
 - C6 - HIGHWAY COMMERCIAL ZONE
 - EM1 - PRESTIGE EMPLOYMENT AREA ZONE
 - EM2 - GENERAL EMPLOYMENT AREA ZONE
 - EM3 - RETAIL WAREHOUSE EMPLOYMENT AREA ZONE
 - OS1 - OPEN SPACE CONSERVATION ZONE
 - (H) - HOLDING PROVISION
- Subject Lands**
-

Location Map

LOCATION:
Part of Lot 10, Concession 9

APPLICANT:
SRF Vaughan Property II Inc.

N:\DFT\1 ATTA\119\15T-05V030_rev.dwg



Attachment

FILE: 19T-05V03
DATE: January 17, 2011





C 8
Item # 27
Report No. 25 CW
COUNCIL - May 24, 2011

May 18, 2011

To: Mayor and Members of Council

Re: Construction of (1) Artificial Turf Soccer Field & Associated Landscape Works for Sonoma Heights Community Park (T11-153)

Recommendation

The Commissioner of Community Services, in consultation with the Director of Parks Development, Recreation & Culture, Parks Operations & Forestry, Purchasing Services Department, and Reserves and Investments, recommends:

- 1) That T11-153 Construction of (1) Artificial Turf Soccer Field & Associated Landscape Works for Sonoma Heights Community Park be awarded to Gateman Milloy in the amount of \$934,827.71, plus H.S.T.;
- 2) Additional funding for Geo-Technical inspections/testing in the amount of \$6,000.00 and for Electrical inspections/testing in the amount of \$5,200.00 be approved.
- 3) That a contingency allowance of 10% be approved, within which the Director of Parks Development is authorized to approve amendments to the contract;
- 4) That the budget for capital project PK-6281-10 be increased by \$108,000 and funded \$97,200 from City Wide Development Charges, Parks Development and \$10,800 from Parks Infrastructure Reserve;
- 5) That inclusion of the matter on a Public Committee or Council agenda for additional funding for Sonoma Heights Artificial Turf Soccer Field Construction is deemed sufficient notice pursuant to Section 2(1)(c) of Bylaw 394-2002; and,
- 6) That a bylaw be enacted authorizing the Mayor and the City Clerk to sign the necessary documents.

Contribution to Sustainability

This report is consistent with the priorities previously set by Council in the Green Directions Vaughan, Community Sustainability Environmental Master Park Plan, Goal 2, Objective 2.2:

- To develop Vaughan as a City with maximum green space and an urban form that supports our expected population growth.

Economic Impact

Capital project PK-6281-10, Construction of (1) Artificial Turf Soccer Field & Associated Landscape Works for Sonoma Heights Community Park was approved in the 2010 Capital Budget in the amount of \$987,000. Additional funding of \$108,000 is required and shall be comprised of \$97,200 from City Wide Development Charges – Parks Development and \$10,800

memorandum

from the Parks Infrastructure Reserve There is no change to the Parks Operations and Forestry base operating budget as a result of this redevelopment.

Communications Plan

The Kleinburg Nobleton Soccer club will be informed of council's decision following the May 24, 2011 Council meeting.

Purpose

The purpose of this memorandum is to seek Council approval to award T11-153 Construction of (1) Artificial Turf Soccer Field & Associated Landscape Works for Sonoma Heights Community Park.

Background

The project is for the construction of an Artificial Turf Soccer Field at Sonoma Height Community Park located at 100 Sunset Ridge, in Ward 2.

The project will provide a new Artificial Turf Soccer Field and will encourage physical activity and promote the health and well being of Vaughan residents.

All twelve (12) prequalified general contractors were invited to provide bids for tender T11-153 and were notified that the tender will close and be publicly opened on May 17, 2011.

A total of 8 bids had been picked-up from the Purchasing Services Department and 7 bid documents were received, 2 were non-compliant and the results are as follow:

Contractor	Tendered Price (not incl. HST)
Gateman Milloy Inc.	\$ 934,827.71
*Mopal Construction	\$1,000,429.90
Pine Valley Enterprises	\$1,006,605.74
Forest Contractors	\$1,024,931.25
Dol Turf Restoration Ltd.	\$1,116,644.75

**Mathematical correction due to adding error.*

Parks Development staff has reviewed the submitted bids and are satisfied that Gateman Milloy meet the requirements of the bid. Therefore, it is appropriate to award this contract to Gateman Milloy.

Gateman Milloy Inc	\$ 934,827.71
Contingency Amount (+-10%)	93,482.77
Geo-Technical inspections/testing	6,000.00
Electrical inspections/testing	5,200.00
Sub-total	\$1,039,510.48
Spent/Committed to date	23,363.96
Sub-total	\$1,062,874.44
Treasury Administration (3%)	31,886.23
Total Cost	\$1,094,760.67
 Rounded	 <u>\$1,095,000</u>
 Total Cost	 \$1,095,000
PK-6281-10 Original Budget	987,000
Additional Funds Requested	<u>\$ 108,000</u>

Relationship to Vaughan Vision 2020/Strategic Plan

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

- **STRATEGIC GOAL:**
Service Excellence - Providing service excellence to citizens.
- **STRATEGIC OBJECTIVES:**
Pursue Excellence in Service Delivery; and Enhance and Ensure Community Safety, Health and Wellness - To deliver high quality services and to promote health and wellness through design and program.

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

Regional Implications

Not Applicable

Conclusion

Staff recommend that this contract be awarded to Gateman Milloy in the amount of \$934,827.71, plus H.S.T. The budget for capital project PK-6281-10 be increased by \$108,000 and funded \$97,200 from City Wide Development Charges, Parks Development and \$10,800 from Parks Infrastructure Reserve.

Parks Development and Purchasing Services Department staff members have reviewed the bid submissions and have determined that the low bid contractor, Gateman Milloy is deemed to meet the requirements of the contract.

Should Council concur with the additional funding request, this action would be considered as an amendment to the Capital Budget. Pursuant to the Municipal Act, before amending a budget, a municipality shall give notice of its intention to amend the budget at a Council meeting. Where a capital budget has been subject to a public meeting during the adoption of the approved capital budget and where additional funding is required to complete the approved works, inclusion of the matter in a staff report requesting additional funding on a Public Committee or Council Agenda is deemed sufficient notice pursuant to Section 2(1)(c) of bylaw 394-2002.

Upon award of T11-153, this project will commence within ten (10) working days from the Date of Notification of Award and should be completed August 1st, 2011 (weather permitting).

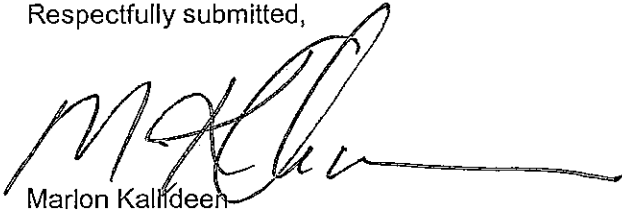
Attachments

Not applicable.

Report Prepared by:

Paul Gardner, Director of Parks Development, ext. 8858
Martin Tavares, Construction Coordinator, ext. 8882
Mike Kari, Landscape Architect, ext. 8113

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MK', followed by a long horizontal line extending to the right.

Marlon Kalfideen
Commissioner of Community Services

Copy to: Clayton Harris, City Manager
Barbara Cribbett, Commissioner of Finance and City Treasurer
Paul Gardner, Director of Parks Development
George Wilson, Director of Purchasing Services
Ferrucio Castellarin, Director of Reserves and Investments

DATE: May 18, 2011

TO: Hon. Maurizio Bevilacqua, Mayor
and Members of Council

RE: **COUNCIL MEETING – MAY 24, 2011**
AWARD OF TENDER T11-048
KEELE STREET SIDEWALK
LANGSTAFF ROAD TO RUTHERFORD ROAD
WARD 4

c 10
Item # 6
Report No. 25 CW
COUNCIL – May 24, 2011

Recommendation

The Commissioner of Engineering and Public Works in consultation with the Director of Purchasing Services and the Director of Reserves and Investments recommends:

1. That Tender T11-048, Keele Street sidewalk - Langstaff Road to Rutherford Road be awarded to VBN Paving Limited in the amount of \$207,510.00, plus applicable taxes;
2. That a contingency allowance in the amount of \$21,000.00, plus applicable taxes be approved within which the Commissioner of Engineering and Public Works or his designate is authorized to approve amendments to the Contract;
3. That a Geotechnical and Material Testing amount of \$2,000.00, plus applicable taxes be approved to ensure compliance with all applicable standards;
4. That a Utility Relocation amount of \$15,000.00, plus applicable taxes be approved;
5. That the budget of Capital Project No. EN-1663-07 be increased by \$26,000.00 and be funded by Citywide Engineering Development Charges;
6. That inclusion of the matter on a Public Committee or Council Agenda for additional funding request for Keele Street Sidewalk – Langstaff Road to Rutherford Road is deemed sufficient notice pursuant to Section 2(1)(c) of By-Law 394-2002; and
7. That the Mayor and City Clerk be authorized to sign the appropriate documents.

Contribution to Sustainability

The construction of the sidewalks links will promote pedestrian transportation and ensure that an acceptable level of service by the City's infrastructure is maintained for the health and well being of its citizens.

Economic Impact

The total project cost, which includes a contingency allowance, geotechnical inspection, material testing, utility relocation and treasury administration is approximately \$258,000.00. The 2007 Capital Budget (Capital Project No. EN-1663-07) for the Keele Street Sidewalk includes \$232,000.00, with \$160,000.00 funded from City Wide Development Charges and \$72,000.00 from Taxation.

The estimated additional cost for this project of \$26,000.00 is to be funded by increasing the funding from Citywide Engineering Development Charges.

Long range financial implications will include operating and maintenance costs associated with this type of infrastructure which are not quantified at this time, including long term replacement.

Communications Plan

Once the project is awarded, Engineering Services staff will advise the Mayor and Members of Council and will distribute a notice of construction to the affected residents and businesses.

Purpose

Council approval to award Tender T11-048, Keele Street sidewalk - Langstaff Road to Rutherford Road.

Background - Analysis and Options

The work covered by this tender includes the installation of several segments of concrete sidewalk on either side of Keele Street between Langstaff Road and Rutherford Road, totaling approximately 1,730 metres in length (Capital Project No. EN-1663-07). See Attachment No. 1 for project location. All necessary permits and approvals have been obtained.

The tender was advertised in the Daily Commercial News, on the Ontario Public Buyers Association (OPBA), on Biddingo and on the City webpage and closed on April 26, 2011. Construction is scheduled to commence in June and is expected to be completed by Fall 2011. A total of 24 sets of bid documents were picked up from the Purchasing Services Department and the following 17 bids were received:

<u>Contractor</u>	<u>Total Bid Amount (excl. H.S.T.)</u>
VBN Paving Limited	\$207,510.00
Ashland Paving Ltd.	*\$209,239.94
Nuroad Construction Limited	\$220,854.00
Robert B. Meisner Construction Inc.	*\$239,408.50
IL Duca Contracting Inc.	\$237,145.00
614128 Ontario Ltd. O/A Trisan Construction	\$238,598.19
Concord Paving Inc.	\$241,770.00
Aloia Bros. Concrete Contractors Ltd.	*\$243,654.25
Vaughan Paving Ltd.	\$250,493.25
Coco Paving Inc.	*\$248,544.47
D. Martino Construction Limited	\$251,275.00
Bennington Construction Ltd.	\$254,113.00

Serve Construction Ltd.	\$268,759.00
Miwei Construction Limited	\$274,396.81
Rafat General Contractor Inc.	\$284,290.00
A.V. Curb & Sidewalk Ltd.	\$321,354.37
Ferpac Paving Inc.	\$406,820.00

* Corrected for arithmetic error

The estimated cost for this project, including geotechnical inspection and material testing, a contingency allowance, utility relocation, treasury administration and all applicable taxes is \$258,000.00 and is calculated as follows:

VBN Paving Limited (excluding H.S.T.)	\$ 207,510.00
Contingency Amount (approx. 10%)	\$ 21,000.00
Geotechnical Inspections and Material Testing (estimated)	\$ 2,000.00
Utility Relocation	\$ 15,000.00
Sub-Total	\$ 245,510.00
H.S.T. (1.76%)	\$ 4,320.98
Total	\$ 249,830.98
Treasury Administration (3%)	\$ 7,494.93
Net Total Cost	\$ 257,325.91

ROUNDED \$ 258,000.00

Approved Budget (\$ 232,000.00)

Additional Funds Required \$ 26,000.00

Engineering Services staff have reviewed the submitted bids and are satisfied that VBN Paving Limited, which has successfully completed similar work for the City in the past, is deemed qualified to undertake this project. Therefore, it is appropriate to award this contract to the low bidder, VBN Paving Limited.

The engineering estimate for the construction of this project was \$230,000.00, excluding H.S.T. The primary reason for the budget variance is due to incorporating provisions into the contract to relocate utilities in order to accommodate the installation of the proposed sidewalk. These utility relocations were not anticipated in the early stages of design.

Relationship to Vaughan Vision 2020/Strategic Plan

In consideration of the strategic priorities related to Vaughan Vision 2020, the recommendations of this report will assist in:

Pursue Excellence in Service Delivery;
Enhance and Ensure Community Safety, Health & Wellness; and
Lead and Promote Environmental Sustainability

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

Regional Implications

York Region has issued their approval and will be advised of project commencement.

Conclusion

Staff recommends that this contract be awarded to VBN Paving Limited in the amount of \$207,510.00, plus applicable taxes.

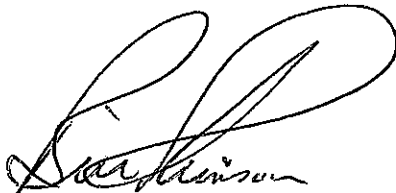
Attachments

1. Location Map

Report prepared by:

Colin Cassar, C.E.T., Senior Engineering Assistant, ext. 8756
Vince Musacchio, P. Eng., PMP, Manager of Capital Planning and Infrastructure, ext. 8311 27

Respectfully submitted,



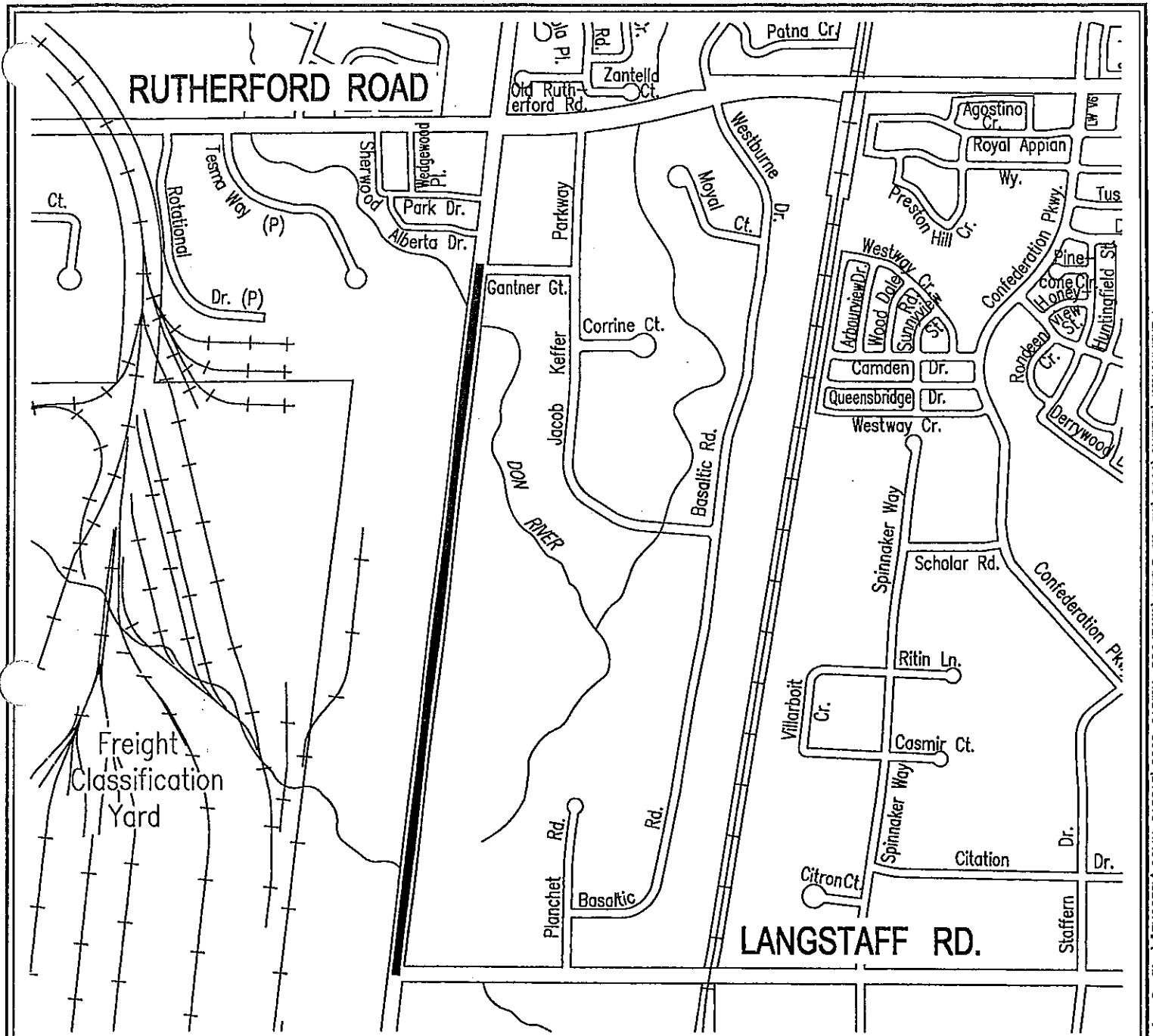
Bill Robinson, P. Eng.
Commissioner of Engineering and Public Works



Jack Graziosi, P. Eng., M. Eng.
Director of Engineering Services

CC:mc

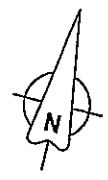
ATTACHMENT No. 1



**KEELE STREET SIDEWALK
LANGSTAFF ROAD TO RUTHERFORD ROAD
T11-048**

LEGEND

— SUBJECT AREA



NOT TO SCALE

DATE: May 18, 2011

TO: Hon. Maurizio Bevilacqua, Mayor
and Members of Council

RE: **COUNCIL MEETING – MAY 24, 2011**
AWARD OF TENDER T11-086
PEELAR ROAD CULVERT REPLACEMENT
WARD 4

c <u>11</u>
Item # <u>5</u>
Report No. <u>25 CW</u>
<u>COUNCIL – May 24, 2011</u>

Recommendation

The Commissioner of Engineering and Public Works in consultation with the Director of Purchasing Services and the Director of Reserves and Investments recommends:

1. That Tender T11-086, Peelar Road Culvert Replacement be awarded to Direct Underground Inc. in the amount of \$420,835.00, plus applicable taxes;
2. That a contingency allowance in the amount of \$45,000.00, plus applicable taxes be approved within which the Commissioner of Engineering and Public Works or his designate is authorized to approve amendments to the Contract;
3. That the City retain SRM Associates to provide contract administration and inspection services, including geotechnical and material testing and disbursements at an estimated cost of \$67,400.00, plus H.S.T., funded from the 2008 Capital Budget (Capital Project No. EN-1728-08);
4. That a contingency allowance in the amount of \$7,000.00, plus H.S.T., be approved for contract administration and inspection within which the Commissioner of Engineering and Public Works or his designate is authorized to approve additional engineering services;
5. That the necessary By-Law be passed authorizing the temporary road closure of Peelar Road, approximately 200 metres west of Maplecrete Road, to facilitate the installation of the culvert in a safe and efficient manner, from July 1, 2011 to October 14, 2011; and
6. That the Mayor and City Clerk be authorized to sign the appropriate documents.

Contribution to Sustainability

The replacement of the culvert will ensure that an acceptable level of service by the City's infrastructure is maintained for the health and well being of its citizens.

Economic Impact

The total project cost of \$570,000.00, which includes a contingency allowance, contract administration and inspection, geotechnical inspection, material testing and treasury administration falls within the approved budget amount and as such, there is no additional economic impact to the 2008 Capital Budget (Capital Project No. EN-1728-08).

Long range financial implications will include operating and maintenance costs associated with this type of infrastructure which are not quantified at this time, including long term replacement.

Communications Plan

Once the project is awarded, Engineering Services staff will advise the Mayor and Members of Council and will distribute a notice of construction to the affected residents and businesses.

A comprehensive communication plan will be implemented to inform all the stakeholders of the proposed temporary closure of Peelar Road. The communication plan will include written notification of the road closure to the area property owners and stakeholders, including emergency public service agencies (Police, Fire and Ambulance), as well as Canada Post.

Access Vaughan will be provided with information regarding the road closure and associated contact information in order to effectively respond to enquiries from the general public. The contractor will be responsible for the installation and maintenance of all barricades and construction signage in order to provide pedestrian safety and local access around the construction area. The appropriately worded road signage will be installed a minimum of two weeks prior to the road closure as a means of informing motorists of the temporary road closure in accordance with the Ontario Traffic Manual Book 7.

Purpose

Council approval to award Tender T11-086, Peelar Road Culvert Replacement.

Background - Analysis and Options

The work covered by this tender includes the replacement of an existing culvert on Peelar Road, approximately 75 metres east of Interchange Way over the Black Creek, (Capital Budget Project No. EN-1728-08). See Attachment No. 1 for project location. All necessary permits and approvals have been obtained.

The tender was advertised in the Daily Commercial News, on the Ontario Public Buyers Association (OPBA), on Biddingo and on the City webpage and closed on May 4, 2011. A total of 26 sets of bid documents were picked up from the Purchasing Services Department and the following 11 bids were received:

<u>Contractor</u>	<u>Total Bid Amount (excl. H.S.T.)</u>
Direct Underground Inc.	\$420,835.00
Iron Trio Inc.	* \$425,754.81
Taylor Wakefield General Contractors	* \$430,619.00
614128 Ontario Ltd. O/A Trisan Construction	\$440,177.70
Esposito Bros. Construction Ltd.	\$453,570.35

Comer Group Limited	\$456,137.00
All Services Incorporated	* \$479,155.00
Bob Henderson Construction	\$525,060.00
Anscon Contracting Inc.	\$536,780.44
Gentile Contracting Ltd.	* \$551,866.00
Wasero Construction (1991) Ltd.	\$624,669.00

* Corrected for arithmetic error

The estimated cost for this project, including contract administration and inspection, geotechnical inspection and material testing, a contingency allowance, treasury administration and all applicable taxes is \$570,000.00 and is calculated as follows:

Direct Underground Inc. Bid Price (excluding H.S.T.)	\$420,835.00
Contingency Amount (approx. 10%)	\$ 45,000.00
Contract Administration and Inspection, including Geotechnical Inspections and Material Testing (estimated 12 weeks)	\$ 67,400.00
Contingency Amount (Contract Administration and Inspection)	\$ 7,000.00
Sub-Total	\$540,235.00
H.S.T. (1.76%)	\$ 9,508.14
Total	\$549,743.14
Treasury Administration (3%)	\$ 16,492.29
Net Total Cost	\$566,235.43

ROUNDED \$570,000.00

Engineering Services staff and the City's consultant SRM Associates have reviewed the submitted bids and are satisfied that Direct Underground Inc., which has successfully completed similar work for the City in the past, is deemed qualified to undertake this project. Therefore, it is appropriate to award this contract to the low bidder, Direct Underground Inc.

The engineering estimate for the construction of this project was \$570,000.00, excluding H.S.T.

Relationship to Vaughan Vision 2020/Strategic Plan

In consideration of the strategic priorities related to Vaughan Vision 2020, the recommendations of this report will assist in:

- Pursue Excellence in Service Delivery;
- Enhance and Ensure Community Safety, Health & Wellness; and
- Lead and Promote Environmental Sustainability

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

Regional Implications

Not Applicable.

Conclusion

Staff recommends that this contract be awarded to Direct Underground Inc. in the amount of \$420,835.00 plus applicable taxes.

Attachments

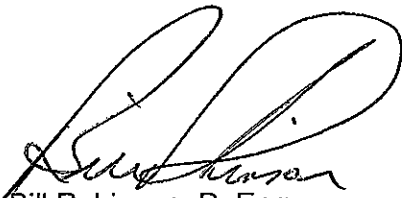
1. Location Map

Report prepared by:

Pat Marcantonio, C.E.T., Senior Engineering Assistant, ext. 8468

Vince Musacchio, P. Eng., PMP, Manager of Capital Planning and Infrastructure, ext. 8311 *W*

Respectfully submitted,



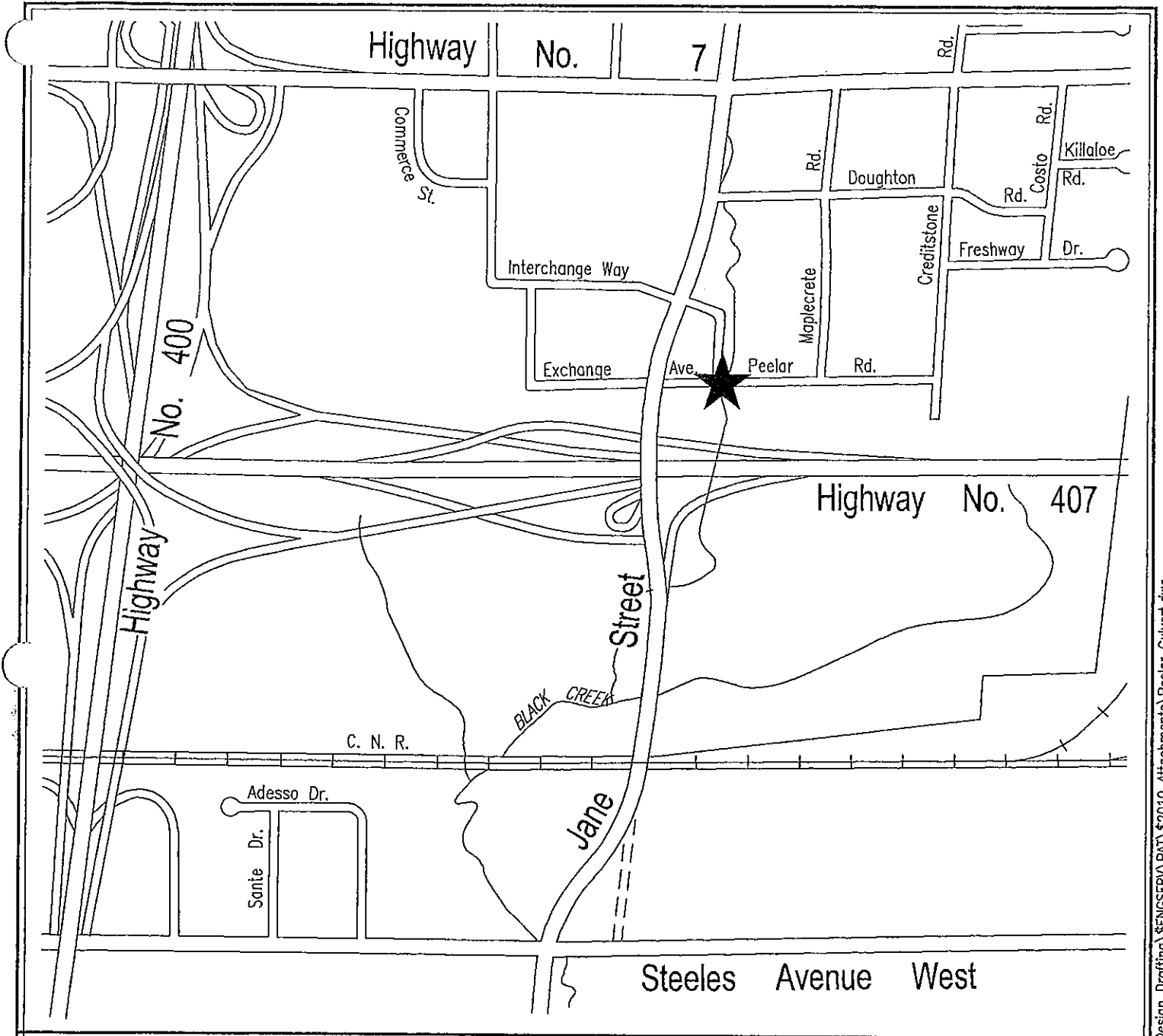
Bill Robinson, P. Eng.
Commissioner of Engineering and Public Works



Jack Graziosi, P. Eng., M. Eng.
Director of Engineering Services

PM:mc

ATTACHMENT No. 1



PEELAR ROAD - CULVERT REPLACEMENT

T11 - 086

LOCATION: Part of Lot 4, Conc. 4

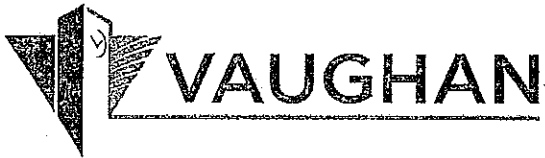
LEGEND



CULVERT LOCATION



NOT TO SCALE



memorandum

DATE: May 19, 2011
TO: Mayor Bevilacqua and Members of Council
FROM: Clayton D. Harris, City Manager
RE: **COUNCIL MEETING - MAY 24, 2011
OUTSTANDING REPORTS LIST**

C 12
Item # 4
Report No. 29 CW/WS
COUNCIL - May 24, 2011

The City Manager, in consultation with the Senior Management Team recommends that the Outstanding Reports List be revised to reflect the recommended deletions and changes in the attached document (ATTACHMENT 1).

This matter was originally brought to the attention of the Committee of the Whole by Councillor Iafrate at Committee of the Whole meeting on February 22, 2011 (Report 11, Item 23) and as a result was then brought forward to the Committee of the Whole (WS) on May 17, 2011. As directed by Members of Council, staff have reviewed the list with the objective to reducing the number of outstanding items.

The attached revised list contains items that the City Manager and Senior Management Team are recommending be removed from the Outstanding Reports list. An explanation for each item that has been recommended for removal has been included.

Attachments

ATTACHMENT 1: Revised Outstanding Reports List as of May 2011.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Clayton D. Harris'.

Clayton D. Harris, CA
City Manager

CITY MANAGER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>REGION OF YORK'S 2007 GREENING STRATEGY ANNUAL REPORT That Region of York's 2007 Greening Strategy Annual Report, submitted by Regional Councillor Frustaglio, be received and referred to staff for a report.</p> <p>COMMENTS: Manager of Environmental Sustainability was hired in June 2010. Report was provided to staff as a reference document. We coordinate our efforts with the Region where possible.</p>	Environment Committee Report 3 Item 5 April 14, 2008	City Manager	REMOVE
	<p>STRATEGIC PLAN PROCESS NEXT STEPS That staff identify best practices in terms of communicating the whole strategic planning process electronically.</p> <p>COMMENTS: This was addressed through a report on Social Media. We have recently had a discussion with Council on providing the strategic plan electronically to the public.</p>	Strategic Planning Committee Report No. 4 Item 2 September 22, 2008	Sr. Manager of Strategic Planning	REMOVE
	<p>DRAFT 2010 OPERATING BUDGET That the written submission of Mr. Gino Ruffolo, 149 Fieldgate Drive, Vaughan, L6A 1K4, dated November 3, 2009, be received and referred to staff for a report to be provided to Budget Committee.</p> <p>COMMENTS: The disclosures are matters that are determined annually by management in discussion with the City's external auditors and our legal staff.</p> <p>A response to Mr. Ruffolo had been provided prior to this submission. He found it unsatisfactory. Matters of disclosure are revisited annually as part of the City's external audit process.</p>	Budget Committee Report No. 7 Item 4 November 24, 2009	City Manager	REMOVE
	<p>INTERNAL AUDIT REPORT OF CORPORATE COMMUNICATIONS That the City Manager, in consultation with appropriate staff, review the functions and reporting structure of the Corporate Communications Department and report back to the Audit and Operational Review Committee.</p> <p>COMMENTS: This item was a follow up item to the audit report and subsequently as a result, Special Events was moved to Recreation and Culture.</p>	Audit and Operational Review Committee Report No. 3 Item 1 November 24, 2009	City Manager	REMOVE

Attachment 1

**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

CITY MANAGER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>NEW BUSINESS – INCLUSION OF OVERALL ASSESSMENT RATING IN FUTURE AUDIT REPORTS That future audit reports also include an overall assessment rating of the findings and that the City Auditor and senior management be requested to develop the reporting format.</p> <p>COMMENTS: This has been done.</p>	<p>Audit and Operational Review Committee Report No. 3 Item 5 November 24, 2009</p>	<p>City Manager/ SMT</p>	<p>REMOVE</p>
	<p>FOLLOW-UP RECOMMENDATIONS AND REPORT BY BSA INC. That staff report back on the recommendations in the confidential report.</p> <p>COMMENTS: Pursuant to the recommendations in the confidential report, training with respect to the updated Employee Code of Conduct has been provided to all City staff; additional training was also provided to Council EAs with respect to the updated Expense policy.</p>	<p>Audit and Operational Review Committee Report No. 4 Item 2 December 14, 2009</p>	<p>City Manager/ City Auditor</p>	<p>REMOVE</p>
	<p>AFTER ACTION REPORT AUGUST 20, 2009 TORNADO That staff report back on the possible inclusion of the insurance industry and the Insurance Bureau of Canada in our emergency management program, as a support and information component that would assist citizens of the City of Vaughan affected by major events. That the Director of Buildings and Facilities report back on the capacity of the generator in the Joint Operations Centre to fully power the Emergency Operations Centre (EOC).</p> <p>COMMENTS: The Emergency Response plan now includes allocating space at the Emergency Shelters for the Insurance Bureau of Canada. Per Building & Facilities, the generator at the JOC has the capacity to fully power the Emergency Operations Centre and will be made operational when the EOC is fully set up.</p>	<p>Committee of the Whole Report No. 54 Item 21 December 14, 2009</p>	<p>City Manager / Director of Building & Facilities</p>	<p>REMOVE</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

CITY MANAGER ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>GREEN DIRECTIONS VAUGHAN COMMUNITY SUSTAINABILITY AND ENVIRONMENTAL MASTER PLAN IMPLEMENTATION UPDATE AND OUTLOOK FOR 2010 That staff provide an internal cultural plan in anticipation of the move to the new City Hall. (Previously under Commissioner of Community Services – req. to move 04/05/10)</p> <p>COMMENTS: The Manager of Environmental Sustainability was hired June 2010 and the employee environmental education strategy was launched April 2011.</p>	<p>Environment Committee Report No. 9 Item 1 December 14, 2009</p>	<p>City Manager</p>	<p>REMOVE</p>
<p>INTERNATIONAL PARTNERSHIPS PROGRAMME: A STRATEGY FOR GROWTH That staff bring forward recommendations for new economic International Partnerships with suitable partner cities in China, northern Italy, USA and any other jurisdiction offering excellent growth opportunities for Vaughan.</p> <p>COMMENTS: This item has been addressed in a report presented to the Committee of the Whole (WS) May 17, 2011.</p>	<p>Committee of the Whole (Working Session) Report No. 7 Item 4 February 26, 2007</p>	<p>Commissioner of Economic/ Technology & Communications</p>	<p>REMOVE</p>
<p>ONTARIO GREEN BUILDING RESOURCE CENTRE (OGBRC) The findings of the working group be brought back to a future meeting of the Economic Development</p> <p>COMMENTS: An update was provided by email. A more formal response will be provided to Members of Council.</p>	<p>Environment Committee Report No. 1 Item 1 January 26, 2010</p>	<p>Director of Economic Development</p>	<p>REMAIN</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

CITY MANAGER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p><u>NEW BUSINESS – ROLE OF THE PRIORITIES AND KEY INITIATIVES COMMITTEE</u> That a presentation be provided to the next Priorities and Key Initiatives Committee meeting outlining the status of all existing priorities and initiatives to be considered by the Committee.</p> <p>COMMENTS: A report was provided at the Priorities and Key Initiatives Committee meeting on April 11, 2011. In advance of that, staff did provide the June 2010 status report on each initiative by email to Members of Council.</p>	<p>PKI Report No. 2 Item 4 February 15, 2011</p>	<p>City Manager</p>	<p>REMOVE</p>
	<p><u>NEW BUSINESS – HOSPITAL CONTRIBUTIONS AGREEMENT</u> That a report be submitted reviewing the Contribution Agreement signed in June 2009 in the context of the fact that York Central Hospital is now responsible for the hospital contemplated by the Agreement, with such report also to include a review of the benefits were the City of Vaughan to retain ownership of the balance of the lands.</p> <p>COMMENTS: Councillor Iafraite and Mayor Bevilacqua have been provided with updates. Meetings are being set up with VHCC and staff. Staff have reviewed obligations under the Contribution Agreement. This is a very sensitive topic given the pending Federal and Provincial Elections. Prepare a case to get VHCC sign-off to transfer land to YCH submission to the Province. Governance and oversight models are being worked on.</p>	<p>PKI Report No. 2 Item 5 February 15, 2011</p>	<p>City Manager</p>	<p>ONGOING</p>
	<p><u>NEW BUSINESS - OUTSTANDING REPORTS LIST</u> that the Outstanding Report List be reviewed at a Committee of the Whole (Working Session) meeting prior to the end of April 2011. <i>The foregoing matter was brought to the attention of the Committee by Councillor Iafraite.</i></p> <p>COMMENTS: This item was addressed at the Committee of the Whole (WS) on May 17, 2011 and as a Communication to Council on May 24, 2011. There was a delay in bringing the report forward due to the trade mission to China.</p>	<p>Committee of the Whole Report No. 11 Item 23 March 8, 2011</p>	<p>City Manager</p>	<p>REMOVE</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011

COMMISSIONER OF FINANCE AND CITY TREASURER ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>2006 PROPOSED CAPITAL BUDGET That staff develop a policy with respect to staging and prioritizing Capital projects.</p> <p>COMMENTS: Currently Capital Projects are initially sorted by funding source, and then departments prioritize their capital projects within each funding source. Capital Projects that are tax funded are ranked based on criteria such as Legal/Regulatory, Financial Commitment, cost efficiency, 10% co-funding for DC projects, etc. In 2011, prioritization of capital projects will be reviewed by both the Directors Working Group and SMT prior to submission to Finance Committee for consideration. The City has policies in place regarding capital funding levels, which give rise to the necessity to prioritize proposed capital projects each year, therefore staff recommend that this item be removed from the Outstanding Report List.</p>	<p>Budget Committee Report No. 8 Item 2 January 16, 2006</p>	<p>Director of Reserve & Investments</p>	<p>REMOVE</p>
<p>DISASTER RELIEF RESERVE Councillor Tony Carella recommends that the Commissioner of Finance be requested to prepare a report on the feasibility of the City of Vaughan creating a Disaster Relief Reserve, to assist residents and businesses with the cost of post-disaster property restoration not otherwise covered by insurance.</p> <p>COMMENTS: The request for this item made reference to the August 2005 rain storm. Preliminary work by staff indicated that a few municipalities (Ottawa, Hamilton and Toronto) were providing some assistance to constituents for basement flooding, with emphasis on the installation of backwater valves. In December 2008 Council was provided with the "Summer 2008 Rainstorm Update" which included a number of recommendations regarding preventative actions that could be taken to mitigate the potential for flood damage to property (City and private). In addition, in May 2009, Council approved a back-water valve installation subsidy program, to a maximum of \$750 per property.</p> <p>Establishing and funding a Disaster Relief Reserve would impact future tax rates. There would also be uncertainty regarding target reserve levels. Given that Council has taken proactive steps to mitigate potential flood damage to property, staff recommend that this item be removed from the Outstanding Report List.</p>	<p>Committee of the Whole Report No. 29 Item 2 May 23, 2006</p>	<p>Director of Reserves & Investments</p>	<p>REMOVE</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011

COMMISSIONER OF FINANCE AND CITY TREASURER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>ONTARIO MUNICIPAL PARTNERSHIP FUND ALLOCATION that Staff review the funding allocation as it relates to the City of Vaughan under the Ontario Municipal Partnership Fund (OMPF).</p> <p>COMMENTS: This program originated as the Community Reinvestment Fund in the late 90's as a grant intended to offset the impact of downloading of social services to municipalities, address challenges faced by northern and rural communities and to respond to policing costs in rural communities. In 2005, it was renamed the OMPF program. Staff have reviewed the eligibility criteria for this provincial grant program, which consider the municipality's financial strength, the average assessed value of homes, whether the municipality is primarily a rural municipality. Based on the eligibility criteria, the City of Vaughan does not qualify for any OMPF grant assistance. In York Region, the Region of York, the Town of Richmond Hill, the Town of Markham, the Town of Newmarket and the Town of Aurora also do not receive OMPF grant assistance.</p>	<p>Committee of the Whole Report No. 20 Item 3 April 14, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>	
<p>NEW BUSINESS – REQUEST FOR STAFF REPORT WITH RESPECT TO DEVELOPMENT CHARGES LEGISLATION That staff be requested to bring forward a report with a view to request the Provincial Government to amend the Development Charges legislation to include long term maintenance costs for infrastructure, such as, hospitals, etc.</p> <p>COMMENTS: The Development Charges Act currently does not permit municipalities to charge developers for long term maintenance for infrastructure, or to charge for hospital capital costs. In 2009, the City of Vaughan passed a resolution requesting that the Provincial Government amend the Development Charges (DC) Act to permit the collection of development charges to fund the "local" share" component of hospital funding, which was forwarded to Premier McGuinly. Since that time, and despite the City's request, as well as requests to amend the DC Act from other municipalities and the Municipal Finance Officers Association (MFOA), the Province has not taken any action to amend the DC Act. There is also no expectation that the Province of Ontario will be considering amendments to the DC Act prior to the fall Provincial Election. Given that a report to Committee would repeat essentially these comments, staff recommends that this item be removed from the Outstanding Reports List.</p>	<p>Committee of the Whole (Working Session) Report No. 23 Item 3 May 12, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>	

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

COMMISSIONER OF FINANCE AND CITY TREASURER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>CITY OF VAUGHAN/VAUGHAN PUBLIC LIBRARIES – JOINT SERVICES REVIEW That the Joint Services Review Committee bring back a draft agreement with rationale and supporting information for Option 3.</p> <p>COMMENTS: The City of Vaughan and the Vaughan Public Libraries are continuing to operate under the 1994 Agreement between the City of Vaughan and the Vaughan Public Library Board. Staff recommend that this item remain on the Outstanding Reports list.</p>	<p>Audit and Operational Review Committee Report No. 4 Item 2 June 23, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMAIN/ ONGOING</p>
	<p>NEW BUSINESS – RATIONALIZATION OF SERVICES AND FUNCTIONS PROVIDED BY CITY DEPARTMENTS That staff provide to a future Committee of the Whole (Working Session), prior to November 2008, a comprehensive plan outlining a rationalization of all services and functions provided by City Departments, such examples to include, but are not restricted, to such services as inspection, maintenance of bridges and culverts (Engineering /Parks), Waste Management (Engineering/Parks), etc. (022409 – prev under CM)</p> <p>COMMENTS: Staff recommends that this item, being similar to the Program Review initiative currently being developed, be removed from the Outstanding Reports List.</p>	<p>Committee of the Whole (Working Session) Report No. 23 Item 2 May 12, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>
	<p>EXTENDED PRODUCER RESPONSIBILITY (“PRODUCT STEWARDSHIP”) That the development of an extended producer responsibility (or product stewardship) purchasing policy, and that a draft version of such a policy be reviewed in context of the Environment Master Plan. (022409 – prev under CM)</p> <p>COMMENTS: Staff are in the process of drafting a Green Procurement policy, which includes references to manufacturers and vendors that reduce the adverse environmental impact of their production and distribution systems. It is currently anticipated that this policy be provided to Council prior to the end of 2011. Staff recommend that this item be removed from the Outstanding Reports List and referred to the staff to include in the development of the Green Procurement Policy.</p>	<p>Committee of the Whole Report No. 44 Item 4 September 22, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE AND REFER TO THE GREEN PROCUREMENT POLICY</p>

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COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF FINANCE AND CITY TREASURER ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>INFORMATION AND PRIVACY COMMISSION MUNCICARD REPORT That staff provide a report on the Muncicard Program reciting the origins, undertakings, commitments, processes and current status of the program by October 2008. (previously under Commissioner of Finance & Corp. Services-103108) (022409 -- prev under CM)</p> <p>COMMENTS: In 2007, through a third party (Civic Strategies Inc.), the City of Vaughan Muncicard MasterCard was issued by GE Money Trust. The card allowed property owners to accumulate reward points that could be deposited once a year into the cardholders residential property tax account. In 2009, GE announced that the Muncicard MasterCard program was going to be wound down as a result of changes to their Canadian operation. Cardholders were advised and final points were applied to their property tax accounts prior to the 2010 final tax billings being issued.</p> <p>The City recovered \$30,000, the majority of start-up costs and 2007/2008 fees payable to the City from a letter of credit provided by Civic Strategies. A balance of approximately \$19k is owing to the City, which was provided for in the 2009 financial statements. Staff will continue collection efforts, however the program has now ceased.</p>	<p>Committee of the Whole (Closed Session) Report No. 37 Item 13 June 23, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>
<p>AUGUST 19, 2005 RAINSTORM That Staff continue to explore and subsequently report back to Council on funding alternatives and approaches to secure future sustainable funding for; -unexpected storm damage to roads and infrastructure as a result of flooding or other types of severe natural weather occurrences.</p> <p>COMMENTS: As noted under the item "DISASTER RELIEF RESERVE", in December 2008 Council was provided with the "Summer 2008 Rainstorm Update" which included a number of recommendations regarding preventative actions that could be taken to mitigate the potential for flood damage to property (City and private). In addition, in May 2009, Council approved a back-water valve installation subsidy program, to a maximum of \$750 per property.</p> <p>Long-term infrastructure replacement will be included as a substantial element of the Financial Master Plan.</p> <p>Staff recommend that this item be removed from the Outstanding Report List as elements of this item are being dealt with through different initiatives underway.</p>	<p>Committee of the Whole Report No. 5 Item 8 February 13, 2006</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>

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COMMISSIONER OF FINANCE AND CITY TREASURER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>STORM WATER MANAGEMENT RETROFIT STUDY That staff examine funding models for the implementation of a Storm Water Management Retrofit Program and report back to a future Committee of the Whole meeting</p> <p>COMMENTS: Stormwater retrofit is currently funded from the Water/Wastewater rate-based budget, however a detailed review of the preferred funding methodology for Storm Water Management by Engineering/Public Works and Finance should proceed.</p>	<p>Committee of the Whole (Working Session) Report No. 1 Item 3 February 3, 2009</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMAIN/ ONGOING</p>
	<p>NEW BUSINESS – DONATIONS FOR INTERNATIONAL DISASTERS That staff provide a report outlining a policy with respect to donations for international disasters. <i>(Moved from City Manager – Sept. 3/10)</i></p> <p>COMMENTS: Prior to 2011, the City's operating budget included \$5,000 for disaster relief. During the 2011 Operating Budget deliberations, the \$5,000 budget for disaster relief was deleted. A draft policy is being finalized with the objective of funding a reserve through a portion of the net proceeds from fundraising.</p>	<p>Committee of the Whole Report No. 27 Item 39 May 26, 2008</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMAIN</p>

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COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>PROPERTY MATTER MARKET LANE PARKING SITE, CITY OF VAUGHAN That staff be directed to circulate pursuant to the Disposal of Property By-law and report to Council in the Fall on alternatives.</p> <p>COMMENTS: This item resulted from a request to purchase from an abutting owner. The owner has withdrawn the request.</p>	<p>Committee of the Whole (Closed Session) Report No. 40 Item 5 June 15, 2005</p>	<p>Director of Legal Services</p>	<p>REMOVE</p>
<p>CASH-IN-LIEU OF PARKLAND That staff report back to Council with an update on trends in other municipalities regarding medium density.</p> <p>COMMENTS: Report will be coming in October 2011 that addresses this item.</p>	<p>Committee of the Whole Report No. 43 Item 8 June 27, 2005</p>	<p>Manager of Real Estate / Director of Legal Services</p>	<p>REMOVE</p>
<p>PERFORMANCE MANAGEMENT PROGRAM That this matter be referred back to staff for a further report addressing Members of Council's comments.</p> <p>COMMENTS: This item has been incorporated into the Human Resources Strategy.</p>	<p>Committee of the Whole (Working Session) Report No. 36 Item 3 June 26, 2006</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>REMOVE</p>
<p>PROPOSED 2008 CAPITAL BUDGET That staff review the feasibility of declaring the table lands at Dufferin Street as surplus, if no longer required for municipal purposes and any funds derived be allocated to the new City Hall and area related projects.</p> <p>COMMENTS: A report will coming in December 2011 that addresses this item.</p>	<p>Budget Committee Report No. 3 Item 3 February 11, 2008</p>	<p>Director of Legal Services</p>	<p>REMOVE</p>
<p>CONTINUING EDUCATION POLICY That this matter be referred to staff to bring forward to a future Committee of the Whole meeting, a revised policy addressing Members of Council's comments.</p> <p>COMMENTS: This item has been incorporated into the Human Resources Strategy.</p>	<p>Committee of the Whole Report No. 20 Item 7 April 14, 2008</p>	<p>Director of Human Resources / City Manager / SMT</p>	<p>REMOVE</p>

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COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>NEW BUSINESS – OVERNIGHT PARKING ON CITY STREETS That staff bring forward a report with respect to providing on-street parking on appropriate streets throughout the municipality.</p> <p>COMMENTS: This item will be included within the "Residential Parking" issues review.</p>	<p>Committee of the Whole Report No. 40 Item 27 September 8, 2008</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>REMOVE</p>	
<p>SALE OF SMALL/REMNANT PARCELS OF VACANT CITY-OWNED LANDS 1. That appropriate staff be directed to report back to the Committee of the Whole by March 31, 2009 with respect to the development of a policy for the sale and disposal of small and/or remnant vacant parcels of city-owned lands, defined as: a. parcels of real property owned by the City of Vaughan that are land-locked and therefore not separately viable, except as additions to adjacent properties, and/or b. parcels that are of such a size, shape, or limited use that there is no general market for them, as they cannot be developed on their own; and 2. That such transactions shall in fact be sales according to the generally accepted meaning of that term, and shall not include a lease for twenty-one (21) or more years (which is included among the definitions of 'sale' in the Disposal of Property By-law); and 3. That the proceeds of such sales be designated for the sole and exclusive purpose of improvements to the streetscape of the ward in which the parcel is located.</p> <p>COMMENTS: Report will be coming forward in December 2011 that addresses this matter.</p>	<p>Committee of the Whole Report No. 49 Item 11 October 27, 2008</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>REMOVE</p>	
<p>BILL 130 AMENDMENTS TO MUNICIPAL ACT, 2001 – IMPLEMENTATION PLAN 1) That staff explore opportunities for providing municipal services through corporate entities as provided for in Bill 130 and bring forward a report to a Committee of the Whole (Working Session) meeting 4) That staff report back on opportunities available to establish any other board to encourage good government; 5) That staff report back on expanded enforcement powers, particularly powers of entry for inspection and the impact to the municipality;</p> <p>COMMENTS: 1 & 4 - At such time as the need arises, a review of opportunities for corporate entities under the Municipal Act will be undertaken. This be should be removed. 5 - Staff do not see a requirement for any expanded powers of entry and this item should be reviewed.</p>	<p>Committee of the Whole (Working Session) Report No. 11 Item 1 March 19, 2007</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>REMOVE</p>	

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COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>RESIDENTIAL PARKING ISSUES CONSEQUENT ON THE "NEW URBANISM" That street design and by-law enforcement issues relating to residential parking be reviewed by the committee and that staff be directed to bring forward to Council options to address these issues including budgetary considerations.</p> <p>COMMENTS:</p>	<p>Committee of the Whole (Working Session) Report No. 41, Item 2 September 21, 2009</p>	<p>Commissioners of Legal and Administrative Services & Engineering and Public Works</p>	<p>ONGOING</p>
	<p>DEPUTATION – MR. LUCIAN BAIU WITH RESPECT TO NOISE FROM THE SPORTS VILLAGE That staff review the matter regarding amplified music and report to a Committee of the Whole meeting with the results of the review and any appropriate recommendations to assist with a remedy in this matter.</p> <p>COMMENTS: A report was received by Council May 10, 2011.</p>	<p>Committee of the Whole Report No. 50 Item 20 November 24, 2009</p>	<p>Director of Enforcement Services</p>	<p>REMOVE</p>
	<p>WRITTEN SUBMISSION FROM MR. GINO RUFFOLO RE: OMBUDSMAN FOR VAUGHAN That the written submission from Mr. Gino Ruffolo, dated December 4, 2009, be received and referred to staff for a report.</p> <p>COMMENTS: A report will be coming forward in the first quarter of 2012.</p>	<p>Audit & Operational Review Committee Report No. 5 Item 4 December 14, 2009</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>ONGOING</p>
	<p>INTERNAL AUDIT REPORT OF BUILDING AND FACILITIES DEPARTMENT That the corrective action recommendations contained in the following report of the City Auditor, dated November 25, 2009, be implemented and that a further report be provided on the implementation of the recommendations; That the Commissioner of Legal and Administrative Services/City Solicitor, along with appropriate staff, investigate through looking at other municipalities whether a policy should be implemented relating to relatives obtaining work through the City; (Moved from City Manager – Sept. 3/10)</p> <p>COMMENTS: This is being looked at in the context of the City's purchasing policy currently being reviewed by the City's finance department.</p>	<p>Audit and Operational Review Committee Report No. 4 Item 1 December 14, 2009</p>	<p>Commissioner of Legal and Administrative Services</p>	<p>REMOVE</p>

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COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES	MEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>SIGN PROLIFERATION IN THE CITY OF VAUGHAN Staff prepare a report to Council outlining the scope of the perennial sign proliferation in residential areas in the City of Vaughan; and based upon the information revealed in the assessment of the problem, the report include recommendations for a five year comprehensive and long-range plan, including the immediate actions that can be taken to deal with the proliferation of these illegal signs especially on boulevards and on the reverse of traffic signs in our residential neighbourhoods.</p> <p>COMMENTS: With the approval of additional resources for sign crew within public works in the 2011 operating budget, staff will be moving forward with a five (5) year comprehensive recommendation report on this matter.</p>	<p>Committee of the Whole Report No. 21 Item 32 May 11, 2010</p>	<p>Commissioner of Legal and Administrative Services/City Solicitor</p>	<p>REMOVE</p>	
<p>PROPERTY STANDARDS BY-LAW – ALL WARDS That a new Property Standards By-law be brought forward at a future date;</p> <p>COMMENTS: Pursuant to Council direction, a By-law will be coming forward this spring.</p>	<p>Committee of the Whole (Working Session) Report No. 24, Item 2 May 17, 2010</p>	<p>Commissioner of Legal and Administrative Services and City Solicitor</p>	<p>REMOVE</p>	
<p>NEW PROCEDURAL BY-LAW That staff report to Council within a year's time, once the City has had an opportunity to work with the new committee structure and supporting procedural by-law; That staff provide information to the January 18, 2011 Committee of the Whole (Working Session) meeting to facilitate a discussion to consider which Advisory, Sub-Committee or Task Force Committees to establish as Ad Hoc committees;</p> <p>COMMENTS: A report will be brought forward once we have operated under the new By-law for a period of one (1) year.</p>	<p>Committee of the Whole Report No. 43 Item 7 December 7, 2010 Committee of the Whole Report No. 5 Item 1 January 18, 2011</p>	<p>Commissioner of Legal and Administrative Services/City Solicitor / City Clerk</p>	<p>ONGOING</p>	

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COMMISSIONER OF LEGAL & ADMINISTRATIVE SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>UNLEASHED DOGS that staff develop a communication strategy forthwith to make dog owners aware of their responsibility to manage their pets as required by law; and that staff provide a report to a future Committee of the Whole meeting regarding actions taken in response to unleashed dogs and dog attacks in the community.</p> <p>COMMENTS: A report will be coming forward in the near future.</p>	<p>Committee of the Whole Report No. 11 Item 9 March 8, 2011</p>	<p>Commissioner of Legal and Administrative Services/City Solicitor</p>	<p>ONGOING</p>
	<p>LICENSING OF PRIVATE SNOW PLOUGH OPERATORS that staff review the issue of residential snow removal services to assess the utility and viability of requiring a municipal license to operate such a service in the City of Vaughan commencing in the Fall of 2011.</p> <p>COMMENTS: This matter is addressed in the licensing report to Committee of the Whole May 31, 2011.</p>	<p>Committee of the Whole Report No. 11 Item 11 March 8, 2011</p>	<p>Commissioner of Legal and Administrative Services/City Solicitor</p>	<p>REMOVE</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF COMMUNITY SERVICES			
ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>2008 BUDGET FORUM RESULTS That staff provide a report on the costs associated with acquiring a portable public consultation kiosk.</p> <p>COMMENTS: This no longer relevant as public meetings, city web sites and mails out are preferred options.</p>	<p>Budget Committee Report No. 10 Item 3 January 28, 2008</p>	<p>Commissioners of Community Services/ Planning</p>	<p>REMOVE</p>
<p>STATUS UPDATE ON THE IMPLEMENTATION OF RECOMMENDATIONS MAYOR'S TASK FORCE ON COMMUNITY SAFETY AND SECURITY That the Vaughan Safe City Committee report back to Council with a revised mandate to reflect the additional responsibilities; Appropriate City Staff be consulted to provide input into the initiatives proposed by the Safe City Committee, prior to proceeding to Council; <i>(Moved from City Manager – Sept. 3/10)</i></p> <p>COMMENTS: This is not possible as the safe city committee is currently under review by the task force. Its mandate has not yet been established.</p>	<p>Committee of the Whole (Working Session) Report No. 19 Item 4 April 14, 2008</p>	<p>Commissioner of Community Services Safe City Committee</p>	<p>REMOVE</p>
<p>DIRECTION TO STAFF RE TORONTO DISTRICT CHRISTIAN HIGH SCHOOL PROPOSAL Councillor Tony Carella recommends that appropriate staff from the Parks Development, Planning, Real Estate, and Recreation & Culture Departments (and any other departments as determined by the City Manager) be directed to consider jointly the feasibility of a preliminary proposal submitted to Councillor Carella by TDCHS for the future development of a performing arts centre at the Woodbridge Avenue fire hall, Station 73, once the fire hall is decommissioned.</p> <p>COMMENTS: This is not possible since the fire hall is still operational. In addition, if and when the fire hall is decommissioned, the land is required for a park.</p>	<p>Committee of the Whole Report No. 18 Item 41 April 14, 2009</p>	<p>Commissioner of Community Services</p>	<p>REMOVE</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF COMMUNITY SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
CITY OF VAUGHAN'S ORGANIZED EVENTS	<p>1) That the following report of the Director of Corporate Communications, dated December 7, 2009 be received, and that the list of 109 annual and one-time events contained therein be referred to staff to reconfigure and present to a future Committee of the Whole (Working Session) to indicate:</p> <ol style="list-style-type: none"> 1. the general categories of such events; 2. overall goal or goals of these events by category and with reference to Vaughan Vision; 3. objectives of each event or set of events, by category; 4. the principal organizers of such events (if other than the City of Vaughan) and the extent of City involvement, whether in kind or otherwise; 5. in the case of events organized in whole or in part by the City of Vaughan in 2009 the extent and nature of third party sponsorships; 6. the return on investment represented by events #59 and #66 (the Rogers Cup and Corporate Sponsorship Appreciation Event); 7. strategic options in respect to the centralization of sponsorship requests in one city office; and 8. that any Kleinburg BIA events be added to the list; <p>2) That staff be directed to review the organizational structure options of the following two items and bring forward a report to the next available Committee of the Whole or Audit and Operational Review Committee:</p> <ol style="list-style-type: none"> 1. Sponsorship Coordination Function; and 2. Corporate Events Function. <p><i>(Moved from City Manager – Sept. 3/10)</i></p>	<p>Committee of the Whole (Working Session) Report No. 57 Item 1 December 14, 2009</p>	<p>Commissioner of Community Services</p>	<p>REMOVE</p>
SPORTS VILLAGE MATTER – RUTHERFORD ROAD	<p>That staff report on the business agreement by the end of February 2005. That any issues regarding this matter be resolved in consultation with the Ward 1 and 4 Sub-Committees, prior to staff bringing forward a comprehensive report, as soon as possible, to a Committee of the Whole (Working Session) meeting. <i>(Moved from City Manager – Sept. 3/10)</i></p> <p>COMMENTS: This is no longer relevant as the current operator does not wish to change the current agreement.</p>	<p>Committee of the Whole (Working Session) Report No. 54 Item 1 June 28, 2004 Council Minute No. 328 December 6, 2004</p>	<p>Commissioner of Community Services</p>	<p>REMOVE</p>

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COMMISSIONER OF COMMUNITY SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>DEPUTATION – ELDER’S MILLS PUBLIC SCHOOL SKATEBOARD COMMITTEE WITH RESPECT TO A PROPOSAL FOR A NAPA VALLEY SKATE PARK Referred to staff to investigate and report back on the feasibility of a skateboard park.</p> <p>COMMENTS:</p>	<p>Committee of the Whole Report No. 31 Item 46</p>	<p>Commissioner of Community Services</p>	<p>ONGOING</p>
	<p>NEW BUSINESS – YEAR ROUND USE OF MAJOR PARKS that appropriate staff be directed to prepare a report on the feasibility of promoting the year round use of major parks (e.g. the Sonoma Height Community Park) by opening the parking lots on site over the winter months; such report to consider issues such as, but not limited to the following: maximizing the use of municipal assets for the promotion of health and well-being, legal liability and operating costs. <i>(brought to the attention of the Committee by Councillor Carella)</i></p> <p>COMMENTS: As this is a new level of service it will be addressed in the program review staff have been asked to conduct.</p>	<p>Committee of the Whole Item 47, Report No. 43 December 7, 2010</p>	<p>Commissioner of Community Services</p>	<p>REMOVE</p>
	<p>DEPUTATION - CITY OF VAUGHAN BASEBALL & SOFTBALL ASSOCIATIONS WITH RESPECT TO 2011 BANTAM BOYS BASEBALL CHAMPIONSHIP That the deputation of Mr. Dirk Drieberg, City of Vaughan Baseball Association, 10190 Keele Street, Maple, L6A 1R7, and Communication C17, be received and referred to staff for a report to be brought forward to a Finance and Administration Committee during the 2011 budget process. <i>(Moved from Commissioner of Finance & City Treasurer April 19, 2011)</i></p> <p>COMMENTS: This was completed.</p>	<p>Committee of the Whole Report No. 1 Item 23 January 25, 2011</p>	<p>Commissioner of Finance & City Treasurer</p>	<p>REMOVE</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF COMMUNITY SERVICES	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p><u>KLEINBURG/NASHVILLE COMMUNITY USE FACILITIES</u> that staff determine in the short term the possibility of the former United Church as an interim area that could be used for this purpose; That staff identify any funding required in order for the building to be available for community use; That staff provide a report to the Finance and Administration Committee for consideration in the 2011 capital budget deliberations; and That staff review the Recreation and Master Plan and outline the plan and timing in a report to Council for the provision of community services to the Kleinburg and Nashville area.</p>	<p>Committee of the Whole Report No. 11 Item 16 March 8, 2011</p>	<p>Commissioner of Community Services</p>	<p>REMOVE</p>
	<p><u>COMMENTS:</u> This was completed. The church will be available for community use and a presentation of the Recreation Master plan will come before council on June 13th.</p> <p><u>PROPOSED 2011 CAPITAL BUDGET</u> That staff review the current programs delivered at the Woodbridge Pool with a view to moving such programs to other pool locations in light of the eventual decommissioning of Woodbridge Pool, and report to a future meeting;</p>	<p>Finance & Administration Committee Report 7 Item 1 April 5, 2011</p>	<p>Commissioner of Community Services</p>	<p>ONGOING</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
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COMMISSIONER OF ENGINEERING AND PUBLIC WORKS	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>ONTARIO MUNICIPAL BOARD HEARING CAMBRIDGE SHOPPING CENTRES LIMITED AND THE MILLS CORPORATION</p> <p>Staff to undertake a traffic infiltration study approximately nine months following the construction and operation of those draft approved roads presently planned to be located opposite Astona Boulevard, Greenpark Boulevard and Valeria Boulevard in order to assess the level of traffic infiltration, if any, in the Weston Downs Community and to recommend, if necessary, traffic mitigation measures to address any such infiltration.</p> <p>COMMENTS: Pending completion of new roads opposite Weston Downs community & OPR. Development of the lands opposite Astona Blvd. is sometime away and traffic issues would be addressed as part of the normal development process.</p>	<p>Committee of the Whole (Closed Session) Report No. 42 Item 6 May 25, 1999</p>	<p>Commissioner of Engineering and Public Works</p>	<p>REMOVE</p>
	<p>URBAN TRANSPORTATION SHOWCASE PROGRAM GTA TRAVEL DEMAND MANAGEMENT PROGRAM</p> <p>That a subsequent report be prepared when more detailed program and cost elements of the "Greater Toronto Area Travel Demand Management Program" have been determined in consultation with other GTA municipalities.</p> <p>COMMENTS: Pending completion of TMP. Transportation Demand Management will be addressed through the City's TMP, which will be coming forward to Committee in June, 2011</p>	<p>Committee of the Whole Report No. 22, Item 7 March 17, 2003</p>	<p>Commissioner of Engineering and Public Works</p>	<p>REMOVE</p>
	<p>PRESENTATION – MS. MARY-FRANCES TURNER, YORK REGION RAID TRANSIT PLAN WITH RESPECT TO WITH RESPECT TO PROVIDING A STATUS UPDATE ON VIVA</p> <p>That staff review and perform an assessment of needs for high capacity transit in the employment areas.</p> <p>COMMENTS: Pending completion of TMP. The Region's Transportation Master Plan and the Metrolinx TMP provide for rapid transit in the City including the employment areas.</p>	<p>Committee of the Whole Report No. 1 Item 34 January 23, 2006</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMOVE</p>

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COMMISSIONER OF ENGINEERING AND PUBLIC WORKS			
ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>2006 PROPOSED CAPITAL BUDGET That staff provide a report on opportunities for the transfer of funds to York Region for installation of sidewalk and lighting projects at the time of arterial road construction.</p> <p>COMMENTS: Pending response from Region of York. as a matter of normal business, City and Regional staff coordinate the planning and construction of these facilities.</p>	<p>Budget Committee Report No. 8 Item 2 January 16, 2006</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMOVE</p>
<p>SONOMA HEIGHTS MUNICIPAL PARKING LOT FEASIBILITY STUDY That appropriate staff be directed by the City Manager to conduct a feasibility study respecting the development of a metered parking lot on public and other lands in the vicinity of Islington Avenue and Sonoma Boulevard; and that such study be completed no later than ninety days following Council approval of this recommendation.</p> <p>COMMENTS: Coordinated with report from Real Estate. A report will be prepared in conjunction with item from Real Estate.</p>	<p>Committee of the Whole Report No. 36 Item 23 September 10, 2007</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMAIN/ ONGOING</p>
<p>DRINKING WATER UPDATE SAFE DRINKING WATER ACT COMPLIANCE That staff report on opportunities to consolidate staffing to respond to new provincial legislation and requirements that are becoming prevalent in our governance in an effort to be more cost-efficient and more proactive to affect proposed legislation in a positive manner.</p> <p>COMMENTS: Dedicated Training & Compliance staff are in place to pro-actively monitor legislation as it pertains to our water distribution and collection systems. Through the various compliance groups they sit on, staff are able to provide comments on draft legislation and respond accordingly to enacted legislation.</p>	<p>Committee of the Whole (Working Session) Report No. 12 Item 1 March 31, 2008</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMOVE</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011

COMMISSIONER OF ENGINEERING AND PUBLIC WORKS	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>DEPUTATION – MR. PAUL MANTELLA WITH RESPECT TO NASHVILLE ROAD That Engineering staff provide a comprehensive report to a future Committee of the Whole meeting identifying costs associated with the transfer of ownership of Nashville Road from the Region of York to the City of Vaughan and the annual maintenance costs, including any potential upgrades</p> <p>COMMENTS: Pending response from Region of York. Regional Council dealt with this matter and will be retaining ownership of Nashville Road for now.</p>	<p>Committee of the Whole Report No. 57 Item 16 November 24, 2008</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMOVE</p>	
<p>ZONING BY-LAW AMENDMENT FILE Z.06.068 DRAFT PLAN OF SUBDIVISION FILE 19T-06V14 MOLISE KLEINBURG ESTATES INC. REPORT #P.2007.4 That staff prepare the required report addressing conveyance of the Stevenson road allowance open space to the TRCA and include any necessary easements for municipal services utilities</p> <p>COMMENTS: Following completion of western Vaughan EA. Staff will report following the completion of the Western Vaughan IEA and discussions with the stakeholders.</p>	<p>Committee of the Whole Report No. 53 Item 29 November 10, 2008</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMAIN/ ONGOING</p>	
<p>REQUEST FOR STAFF TO INSTALL STREET LIGHTS ALONG WITH SLOW SIGNS ON STEGMAN'S MILL ROAD That staff be directed to provide a report with respect to the installation of street lights along Stegman's Mill Road between Ravendate Court and Islington Avenue and also other safety measures be identified.</p> <p>COMMENTS: Report to be submitted in Q3 - 2011</p>	<p>Committee of the Whole Report No. 54 Item 38 December 14, 2009</p>	<p>Commissioner of Engineering and Public Works</p>	<p>REMAIN/ ONGOING</p>	
<p>GREGORY GATE PRIVACY FENCING That Senior Management Staff be directed to conduct a review of the matters contained herein and meet with the property owners to address the issues and bring forth recommendations to resolve this issue to a future Committee of the Whole meeting. <i>(Transferred from Commissioner of Legal)</i></p> <p>COMMENTS: Further report forthcoming</p>	<p>Committee of the Whole Report No. 42 Item 27 October 13, 2009</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMAIN/ ONGOING</p>	

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

COMMISSIONER OF ENGINEERING AND PUBLIC WORKS			
ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>DEPUTATION – MR. RON RICHARDS WITH RESPECT TO INSTALLING A TRAFFIC SIGNAL AT THE INTERSECTION OF GEORGE KIRBY STREET AND BATHURST STREET</p> <p>Send a resolution to the Region of York in support of installing a traffic signal at the intersection of George Kirby Street and Bathurst Street</p> <p>COMMENTS: Waiting for Region of York. The Region of York has been advised of this resolution. It is anticipated that signals will be installed at this intersection in conjunction with the widening and reconstruction of Bathurst Street</p>	<p>Committee of the Whole Report No. 21 Item 43 May 11, 2010</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMOVE –</p>
<p>NEW BUSINESS – PEDESTRIAN LINKAGE FEASIBILITY STUDY ON HIGHWAY 27 BETWEEN ROYALPARK WAY AND MARTIN GROVE ROAD</p> <p>That staff prepare a report on the feasibility and viability of constructing a pedestrian crosswalk between Royalpark Way and Martin Grove road including costs, to a future Committee of the Whole meeting.</p> <p>COMMENTS: Report to be submitted in Q3 – 2011</p>	<p>Committee of the Whole Report No. 40 Item 71 August 31, 2010</p>	<p>Commissioner of Engineering & Public Works</p>	<p>REMAIN/ ONGOING</p>
<p>INFLOW INFILTRATION REDUCTION & LONG TERM WATER CONSERVATION STRATEGIES CITYWIDE</p> <p>That staff be directed to report back to a future Priorities and Key Initiatives Committee meeting on the final recommended York Region and Local Municipal Inflow Infiltration Reduction and Long Term Water Conservation Strategies and implementation details.</p> <p>COMMENTS: Staff reported to the March 21, 2011 PKI meeting and Council subsequently endorsed the strategies on April 5, 2011.</p>	<p>PKI Report No. 2 Item 2 February 15, 2011</p>		<p>REMOVE</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST - May 2011**

Committee Of The Whole, Council, Public Hearing
Outstanding Reports List
May 2011

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>POLICY AND PROCEDURES FOR DEALING WITH CONTAMINATED OR POTENTIALLY CONTAMINATED SITES CITY OF VAUGHAN That staff develop procedures with respect to the notification process of landowners located within known and potentially contaminated sites, including the inclusion of warning clauses in subdivision agreements and notices being posted in sales offices. That Staff monitor the implementation of these policies and procedures and report back to Council on any revisions which are considered appropriate.</p> <p>COMMENTS: This was initiated back in 2001 and we have administrative procedures through the development application to identify contaminated sites which are remediated as a condition of pre-development. This item is no longer relevant.</p>	<p>Committee of the Whole (Working Session) Report No. 35 Item 1 May 14, 2001</p>	<p>Commissioner of Planning/ Commissioner of Legal & Administrative Services/ Commissioner of Engineering & Public Works</p>	<p>REMOVE</p>
	<p>PROMOTION OF INDUSTRIAL GROWTH (Hwy 427 Extension)(Hwy 400 North Employment area Secondary Plan Study)</p> <p>COMMENTS: That such comprehensive transportation analysis be completed by March 31, 2005. This has been completed. The extension of the 427 EA has been completed and the secondary plan for Hwy. 400 is currently before the OMB.</p>	<p>Committee of the Whole Report No. 73 Item 49 October 25, 2004</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>CASH-IN-LIEU OF PARKING BY-LAW That the Commissioner of Planning jointly with the Commissioner of Engineering and Public Works and the Commissioner of Legal and Administrative Services be directed to prepare a report on the feasibility of implementing a cash-in-lieu of parking by-law, the intent of which is to establish reserve funds for future municipal parking initiatives.</p> <p>COMMENTS: (Part of City-Wide Parking Standards) Winter 2010. This is an ongoing item which will need to be addressed in the future. A Cash-In-Lieu of parking requirement on a city wide basis can only be established when the municipality can determine whether or not it wishes to initiate a municipal parking authority.</p>	<p>Committee of the Whole Report No. 5 Item 24 February 13, 2006</p>	<p>Commissioner of Planning</p>	<p>ONGOING</p>
	<p>SIGN-VARIANCE APPLICATION FILE NO: SV-04-11 OWNER: CANADIAN PACIFIC RAILWAY LOCATION: N/S RUTHERFORD ROAD PART OF LOT 16, CONCESSION 9 That this matter be deferred to a future Committee of the Whole meeting to provide an opportunity for the applicant to meet with the Ward Councillor to resolve outstanding issues</p> <p>COMMENTS: CP Rail was instructed to meet with the Ward Councillor to resolve outstanding issues with regard their request for signage on rail bridges. CP has not followed through and given the length of time, the item should be removed. If CP wishes to reinstate their request, they can do so for a new request.</p>	<p>Committee of the Whole Report No. 9 Item 7 February 27, 2006</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>

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COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
<p>SIGN VARIANCE APPLICATION FILE NO: SV-06-020 OWNER: SHIPLAKE INVESTMENTS-RUTHERFORD LTD. LOCATION: 9200-BATHURST STREET, LOT NO.-15-CONCESSION-2 That this matter be referred to a future Committee of the Whole meeting for further discussion with the applicant, staff and the Ward Councillor.</p> <p>COMMENT: The applicant was to meet with the ward councillor and has not initiated any further action. The item should be removed and the applicant can reinitiate as they choose.</p>	<p>Committee of the Whole Report No. 43 Item 31 September 25, 2006</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>	
<p>TRANSPORTATION DEMAND MANAGEMENT (TDM) 1. That staff prepare a report outlining a plan to implement TDM as a component of site plan approval. 2. That the plan include a time line for implementation That as part of the implementation plan a workshop be offered to all those interested explaining what will be involved in the TDM requirement.</p> <p>COMMENTS: Remove from the list as TDM is a requirement of all development applications and is currently being implemented.</p>	<p>Committee of the Whole Report No. 47 Item 4 October 22, 2007</p>	<p>Commissioners of Planning & Engineering & Public Works</p>	<p>REMOVE</p>	
<p><u>KLEINBURG NEW FOREST NORTH PROJECT</u> (TRCA fill lands) That staff report back to Committee of the Whole once the Peer Review results are available.</p> <p>COMMENTS: This should be removed as it is under the jurisdiction of the TRCA who is handling this issue</p>	<p>Committee of the Whole Report No. 9 Item 15 February 25, 2008</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>	

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COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>NEW BUSINESS – REQUEST FOR REPORT ON LAND FORM CONSERVATION PRACTICES That staff provide a report on land form conservation practices.</p> <p>COMMENTS: This matter is under the auspice of the TRCA and staff have yet to receive anything from TRCA regarding this. This can be removed as we have adopted policies in our new OP regarding land form conservation and further the sustainable development performance standards which are being developed in conjunction with the City of Brampton and Richmond Hill will provide further detail.</p>	<p>Environment Committee Report No. 4 Item 5 May 12, 2008</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>
	<p>NEW BUSINESS – REVIEW OF OFFICIAL PLAN AND ZONING POLICIES RELATED PLACES OF WORSHIP that the Commissioner of Planning be requested to report to the Committee of the Whole no later than September 30, 2009. (REFER to report for resolution.)</p> <p>COMMENTS: This is ongoing but is not of the highest priority. A report was brought to Council in the spring of 2010 and it was determined at that time that further work should be undertaken in the future.</p>	<p>Committee of the Whole Report No. 18 Item 50 April 14, 2009</p>		<p>ONGOING</p>
	<p>NEW BUSINESS – WESTON DOWNS WALL ALONG RUTHERFORD ROAD REVIEW OF URBAN DESIGN GUIDELINES AND FUNDING OF LIGHTING That the Engineering and Planning Departments be requested to immediately review the appropriate urban design guidelines in consultation with the Finance Department, and provide a report to a future Committee of the Whole, addressing the appropriateness, timing, and funding of lighting in the Weston Downs Wall along Rutherford Road. (050509prevunderEngineering)</p> <p>COMMENTS: 2nd Q 2010 CW Report on Agenda for Feb. 2, 2010 (Deferred to future CW pending meeting with Weston Downs Ratepayers Development/Transportation Engineering/Development Planning) On May 6, 2011 Development Planning and Development/Engineering Staff met with the East Woodbridge Community Association in accordance with council resolution from 2010. Further discussion is ongoing and staff are currently waiting for the ratepayers; association to contact staff for another meeting once they have determined their position.</p>	<p>Committee of the Whole Report No. 18 Item 52 April 14, 2009</p>	<p>Commissioner of Planning & Commissioner of Engineering and Public Works</p>	<p>ONGOING</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST – May 2011**

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>NEW BUSINESS – SIGNAGE ALONG MAJOR HIGHWAYS That staff review the Urban Design Guidelines for signage along major highways to encourage consistency, scale, size, materials and attractiveness and lighting. (1013 09 prev under the Commissioner of Legal and Administrative Services)</p> <p>COMMENTS: Staff is currently active in preparing a report which will be presented in the fall of 2011.</p>	<p>Committee of the Whole Report No. 61 Item 35 December 8, 2008</p>	<p>Commissioner of Planning</p>	<p>ONGOING</p>
	<p>DEPUTATION - REV. KEENAN WITH RESPECT TO SECONDARY SUITES That the deputation of Rev. Jim Keenan and written submissions, dated October 5, 2009 and October 16, 2009, be received and referred to staff for a comprehensive report to the Committee of the Whole (Working Session) that includes terms of reference for the examination of this issue including provisions for a task force.</p> <p>COMMENTS: On hold pending new Provincial Legislation of Bill 140. The province is currently reviewing secondary suites and until such time that the potential changes to provincial legislation is determined regarding secondary suite s., this project is rated a low priority.</p>	<p>Committee of the Whole Report No. 45 Item 21 November 3, 2009</p>	<p>Commissioner of Planning</p>	<p>ONGOING</p>
	<p>DEPUTATION – MR. ABRAHAM SASSON WITH RESPECT TO 8 ERICA ROAD That the deputation of Mr. Abraham Sasson, 40 Erica Road, Thornhill, L4J 2G4, be received and referred to staff for a report addressing the questions raised by Members of Council and the deputation</p> <p>COMMENTS: This matter is currently under litigation and a number of staff have been served, including the City of Vaughan. This matter is not something that staff is in a position to further comment on.</p>	<p>Committee of the Whole Report No. 21 Item 45 May 11, 2010</p>	<p>Commissioner of Planning</p>	<p>REMOVE</p>
	<p>INDUSTRY PRESENTATION – TELECOMMUNICATION TOWERS That staff review the City of Vaughan's Telecommunication Towers protocol taking into consideration the information received and provide options for obtaining further input from residents and experts in the field when developing a new protocol;</p> <p>COMMENTS:</p>	<p>Committee of the Whole (Working Session) Report 17 Item 2 April 5, 2011</p>	<p>Commissioner of Planning</p>	<p>ONGOING</p>

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**COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
OUTSTANDING REPORTS LIST - May 2011**

COMMISSIONER OF PLANNING	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p>SITE DEVELOPMENT FILE DA.10.088 INNOVATION COMMERCIAL CENTRE INC., WARD 2 (Deferred Item) That consideration of this matter be deferred for a review of the telecommunication tower protocol.</p> <p>COMMENTS:</p>	Committee of the Whole Report 7, Item 1 Council May 3, 2011	Commissioner of Planning	ONGOING
	<p>SITE DEVELOPMENT FILE DA.10.089 MACFAZZEN PROPERTIES INC. C/O ZENTIL PROPERTY MANAGEMENT WARD 3 (Deferred Item) That consideration of this matter be deferred for a review of the telecommunication tower protocol.</p> <p>COMMENTS:</p>	Committee of the Whole Report 7, Item 5 Council May 3, 2011	Commissioner of Planning	ONGOING
	<p>SITE DEVELOPMENT FILE DA.10.061 HL & M MARCUS INVESTMENTS INC. WARD 4 (Deferred Item) That consideration of this matter be deferred for a review of the telecommunication tower protocol.</p> <p>COMMENTS:</p>	Committee of the Whole Report 7, Item 6 Council May 3, 2011	Commissioner of Planning	ONGOING
	<p>DEPUTATION - MR. FRANCESCO DI NARDO WITH RESPECT TO 1101 CLARENCE STREET SEVERANCE By approving that the staff report identifying concerns raised be provided to the Committee of the Whole meeting of May 10, 2011.</p> <p>COMMENTS: A report was forward to CW for May 10, 2011 and was deferred to May 31, 2011.</p>	Committee of the Whole Report 19, Item 39 Council May 3, 2011	Commissioner of Planning	REMOVE

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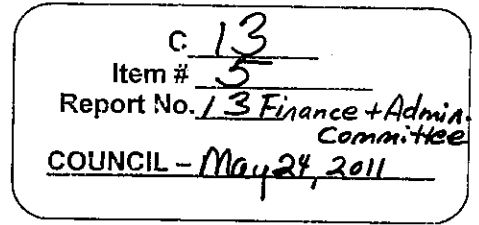
COMMITTEE OF THE WHOLE, COUNCIL, PUBLIC HEARING
 OUTSTANDING REPORTS LIST -- May 2011

OTHER	ITEM	ORIGINATING DATE	ACTION DEPARTMENT	RECOMMENDED ACTION
	<p><u>NEW BUSINESS — STREET PARKING FOR VAUGHAN HEALTHCARE WORKERS</u> That this matter be referred to the Council meeting of October 12, 2004 to provide Regional Councillor Frustaglio and Councillor Meffe the opportunity to explore and report back on the feasibility of appropriately identifying vehicles used by healthcare workers when on duty.</p>	<p>Committee of the Whole Report No. 68 Item 38 October 12, 2004</p>	<p>Regional Councillor Frustaglio/Councillor Meffe</p>	<p>REMOVE</p>

NOTE: This list is for reference purposes only. Please refer to appropriate Council Extract for complete direction.

Hardychuk, Gloria

Subject: Vaughan Auditor General



From: frank.greco@sympatico.ca [mailto:frank.greco@sympatico.ca]

Sent: Monday, May 23, 2011 07:29 PM

To: Bevilacqua, Maurizio; Rosati, Gino; Di Biase, Michael; Deborah Shulte <deborah.shulte@vaughan.ca>; Iafrate, Marilyn; Carella, Tony; DeFrancesca, Rosanna; Racco, Sandra; Shefman, Alan; Abrams, Jeffrey

Subject: Vaughan Auditor General

Dear Mr. Mayor and Members of Vaughan Council;

RE: Item #5- "Review of Internal Audit Charter"- Report No. 13 of the Finance and Administration Committee

Let me first commend Reg. Councillor Rosati for bringing this item to Finance Committee and before Council on May 24th, 2011. The most important topic of discussion for every taxpayer in Vaughan is how our taxes are being spent and are taxpayers getting the most value for their money? When we compare our tax rates with other municipalities, Vaughan has been near the top with the lowest rate. However, are we comparing the same level of service to those other municipalities? I am not sure if we can be definitive about such an answer without a higher level of review from someone like an Auditor General.

The value to the City of Vaughan in having an Auditor General has been something that has been talked about for a number of years. The role of an Auditor General would ensure that city taxes are being used in the most efficient matter. Secondly, a review city expenditures and yearly audit of the city budget by an Auditor General would show where the city can improve to create more value for taxpayers' money, possibly at lower costs. The City of Vaughan does not enjoy this layer of assurance at the moment. Finally, the role of the Auditor General is to create the ultimate level of transparency for taxpayers and the use of public funds for city services. With the clear role and function of an Auditor General Charter, taxpayers would have much more confidence that their tax money is being used wisely, and our City Council and staff could aim to have the lowest tax rate in York for many years to come.

The role of an Auditor General is an essential one for any municipality having tremendous growth in population like ours. I don't think it would take much convincing that role and function of an Auditor General is warranted for our city. I would encourage Members of Vaughan Council to give serious consideration to creating such an important position.

Regards,

Frank Greco t: 905-893-2427 fax: 905-893-3087

E-mail: frank.greco@sympatico.ca

This e-mail, including any attachment(s), may be confidential and is intended solely for the attention and information of the named addressee(s). If you are not the intended recipient or have received this message in error, please notify me immediately by return e-mail and permanently delete the original transmission from your computer, including any attachment(s). Any unauthorized distribution, disclosure or copying of this message and attachment(s) by anyone other than the recipient is strictly prohibited.

5/24/2011



memorandum

May 17, 2011

C 14
Item # 2
Report No. 13 Finance + Admin.
COMMITTEE
COUNCIL - May 24, 2011

To: Hon. Maurizio Bevilacqua, Mayor and Members of Council
From: Barry Jackson, Director of Financial Services
RE: Information Request – Finance & Administration Committee Agenda
May 16, 2011 - Item # 2, 2011 Water & Wastewater Operating Budgets

During the Finance and Administration Committee meeting on May 16, 2011, a request for further information was received in regards to attachment #2 "The Municipal Rate Comparison" . The attached chart has now been changed to include all municipalities in the Region of York.

The revised rate comparison chart now shows that in the Region of York, the City of Vaughan has the lowest rate. However these rates as recommended will ensure the future financial sustainability of the City's water and wastewater infrastructure for the future.

If you have any further questions, please call me at extension 8272.

Regards

Barry Jackson, CGA
Director of Financial Services

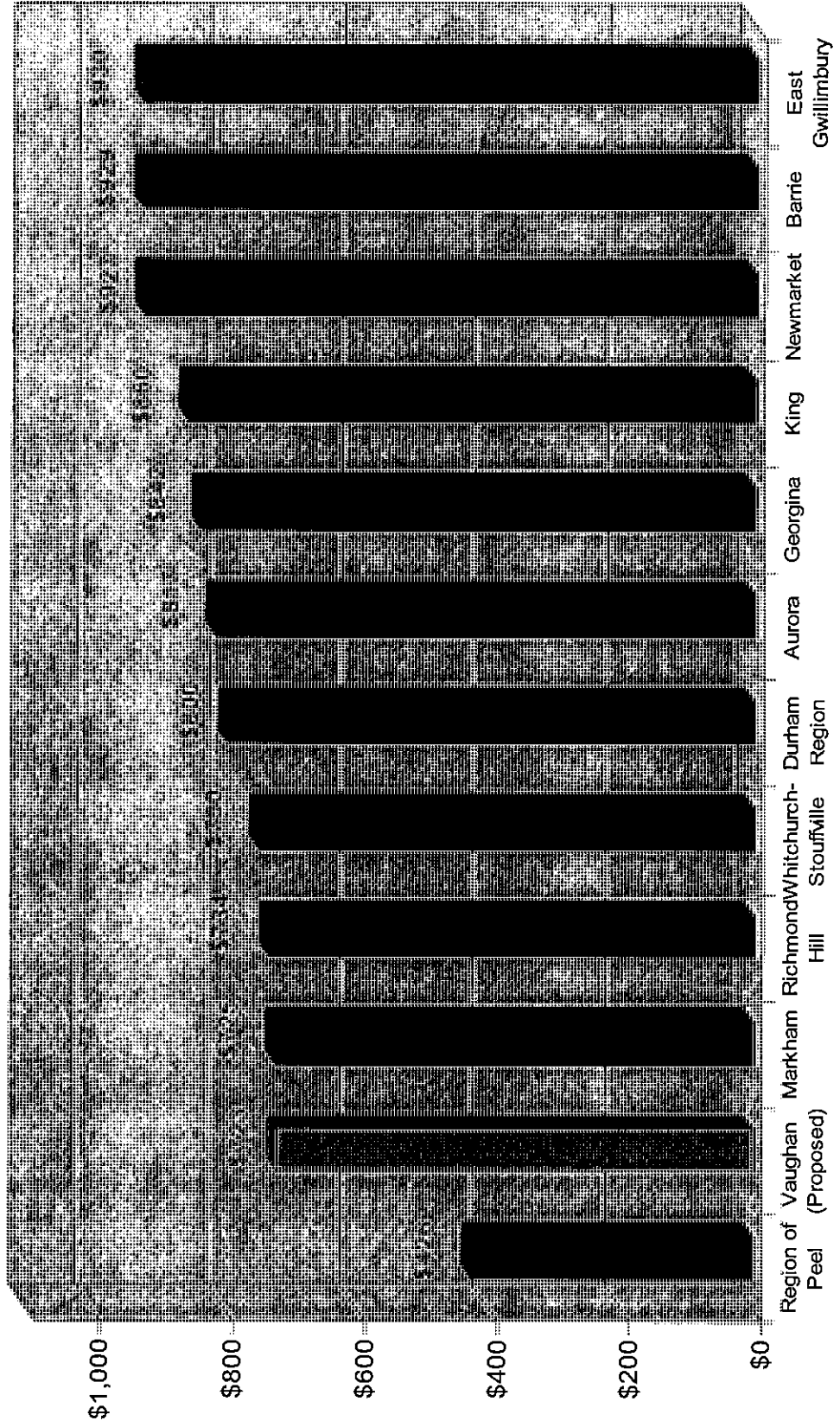
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MAY 20 2011
CITY OF VAUGHAN
CLERKS DEPARTMENT

Attachment

- c: Clayton Harris, City Manager
Barb Cribbett, Commissioner of Finance/City Treasurer
Bill Robinson, Commissioner of Engineering & Public Works
Brian Anthony, Director of Public Works
Jeffrey Abrams, City Clerk
Carey Greenidge, Finance Manager, Water & Wastewater



2011 Municipal Comparison (Revised) – Total Water/Wastewater bill based on an average household consumption of 300 m³ per year.



Bonsignore, Connie

c	15
Item #	4
Report No.	29
COUNCIL - May 24/11	

From: Gino Ruffolo [ruffolog@rogers.com]
Sent: Tuesday, May 24, 2011 11:38 AM
To: lafrate, Marilyn; Abrams, Jeffrey
Cc: Bevilacqua, Maurizio; Rosati, Gino; Di Biase, Michael; Schulte, Deb; Carella, Tony; DeFrancesca, Rosanna; Racco, Sandra; Shefman, Alan
Subject: Communication 12, Item 4, Rpt 29 CW (WS) - \$150M Lawsuit Rizmi & Milan
Importance: High
Attachments: Budget Committee November 10.2009.pdf; Cost Endorsement Rizmi vs. Vaughan.pdf; Omarra Decision Rizmi vs Vaughan.pdf; Written Deputation Gino Ruffolo Budget Committee - November 3 2009.pdf; Milani & Rizmi \$150M Appeal Decision.pdf

Dear Councillor lafrate,

I come to you as a constituent of Ward 1 and respectfully ask that you support my request.

The above noted communication dated May 19th, 2011 from the City Manager recommends that council direction regarding my communications on the Draft 2010 Operating Budget be deleted despite not being addressed. This is not acceptable to me.

Attached are my original communications as well as court decisions.

Let me raise a few points. Ms. Wilson's report dated Nov 10, 2009 stated the Rizmi & Milani winning court decision was under appeal by the City as some sort of mollification to my concerns over financial stability. Well, a few months later on March 15, 2010, the appeal of the City was dismissed by 3 more appeal court judges. The City appealed again and again a few months later the City's appeal was thrown out by 3 more judges.

There are now no more appeals that are possible. What is the status of the case now? Now more than ever, it would suggest that my concerns need to be addressed with a substantial response. Responses such as "reasonable estimates cannot be ascertained" are not acceptable in these circumstances. The potential estimate can be \$150M it is in the statement of claim. The potential financial risk to the taxpayers of Vaughan is substantial and should not be left to who has the better legal team in court.

I don't know much about Rizmi or Milani, but from what I do know...and apparently what at least 7 provincial judges know, is that there is a real risk in this lawsuit to the financial stability of our residents. Let me quote one section of one of the three decisions. "...it is apparent that some degree of damages was sustained by virtue of the City closing the zoning applications". I'm not sure what else you need. There is "reasonable" risk.

I respectfully request the City NOT delete my outstanding item on the issues list and take a call to action to get this lawsuit settled once and for all.

Please pass the following resolution.

That Staff prepare a report to address the \$150M Rizmi & Milani lawsuit in relation to the financial reporting and financial statements of the City of Vaughan.

Thank you and I look forward to hearing from you on this matter.

Gino Ruffolo

Note: The attachments noted in this Communication are available for viewing in the reference binder at the back of the room and will be available in the Clerks Office and on the City website.

5/24/2011

WRITTEN SUBMISSION TO BUDGET COMMITTEE
NOVEMBER 3, 2009

Recommendation

The Director of Financial Services and Director of Legal Services recommend that this report be received for information.

Contribution to Sustainability

N/A

Economic Impact

There is no economic impact as a result of this report.

Communications Plan

N/A

Purpose

The purpose of this report is to report pursuant to Budget Committee direction of November 3, 2009.

Background - Analysis and Options

On November 3, 2009, Budget Committee resolved that the written submission of Mr. Gino Ruffolo, 149 Fieldgate Drive, Vaughan, L6A 1K4, dated November 3, 2009, be received and referred to staff for a report to be provided to Budget Committee. The written submission refers to an ongoing lawsuit in which the City is a Defendant and Lucia Milani and Rizmi Holdings Limited are Plaintiffs. The written submission attaches two decisions of Mr. Justice O'Marra in the lawsuit, one dated May 20, 2009 being a decision regarding the City's motion for summary judgment, and one dated October 7, 2009 for costs of the motion.

In addition to the material submitted, Council will recall that on October 27, 2009, the City was granted leave to appeal the two Decisions of Mr. Justice O'Marra by the Supreme Court of Justice (Divisional Court), by Mr. Justice Dambrot. The Notice of Appeal has been filed.

The written submission indicated the lawsuit should be disclosed in the City's 2008 Financial Statements and should be included in the 2010 operating budget.

The City's financial statements are governed by and are in accordance with the Public Sector Accounting Handbook as set out by the Public Sector Accounting Board (PSAB).

In regards to this lawsuit, senior management staff consulted with City legal counsel as it relates to the 2008 financial statements. In addition the City's external auditors reviewed this matter and specifically had discussions with both senior management staff and the City's legal counsel.

Senior management in consultation with the external auditor made a determination that reasonable estimates could not be ascertained for the purposes of the 2008 financial statements. This decision was in compliance with section 3300 of the above referenced PSAB handbook. The appropriate financial disclosure is reviewed annually.

In terms of public disclosure, the City's financial statements include a general provision under Note 15 section (a) that the City is subject to claims, lawsuits and other contingencies and where estimates can be reasonably estimated an accrual is made .

The City's 2008 financial statements received an unqualified audit opinion by the City's external auditors and they were presented at a public Audit Committee meeting on June 29, 2009 and Council on June 30, 2009.

As the matter is before the Court, and the likelihood of a final determination of the lawsuit in 2010 is not expected, therefore no provision has been made in the 2010 Budget.

Relationship to Vaughan Vision 2020/Strategic Plan

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

Regional Implications

N/A

Conclusion

Staff will continue to monitor the matter.

Attachments

None

Report prepared by:

Heather Wilson
Director of Legal Services

Barry Jackson
Director of Financial Services

John Henry
Director of Budget and Financial Planning

Respectfully submitted,

Barry Jackson
Director of Financial Services

Heather Wilson
Director of Legal Services

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Rizmi Holdings Limited and Lucia Milani v. The Corporation of the City of Vaughan

BEFORE: Justice O'Marra

COUNSEL: *Michael Miller and Sam De Caprio*, for the Plaintiffs

Andrew J. Heal, for the Defendant

DATE HEARD: February 3, 2009

COSTS ENDORSEMENT

[1] The plaintiffs have commenced an action against the City of Vaughan in which they seek \$150 million in damages on the basis that the defendant acted improperly in closing two applications submitted to re-zone parcels of land from agricultural to residential for development purposes. Subsequent to the closing of the applications the *Oak Ridges Moraine Conservation Act*, 2001 S.O. 2001 c.31 was passed significantly curtailing development in the environmentally sensitive area of the Oak Ridges Moraine, within which the plaintiffs' lands are situated. The plaintiffs allege that through the negligent or improper conduct of city officials in closing their applications without notice they lost the opportunity to develop the lands because their closed applications did not qualify as existing applications and exceptions under the transitional provisions of the Act.

[2] The defendant brought a motion under Rule 20.04 for summary judgment on the basis that the claim of the plaintiffs did not raise a genuine material issue for trial. Further, the defendant moved under Rule 21.01(1) (a) for determination before trial on a question of law that would dispose of the action on the basis that s.20 of the *Oak Ridges Moraine Conservation Act* was an absolute bar to the claim advanced. In addition, the defendant argued the *Limitations Act*, 2002 S.O. 2002, c.24 statute-barred the plaintiffs' claim.

[3] The defendant's motion for summary judgment was dismissed on the basis that there were a number of genuine material factual disputes which could only be resolved on an assessment of a full evidentiary record at trial. The defendant's motion to dispose of the action on a question of law was dismissed because I concluded that it is not plain and obvious s.20 of the *Oak Ridges Moraine Conservation Act* is a bar to the plaintiffs' claim of negligence or malfeasance and abuse of public office alleged by the plaintiffs to have been

committed by the defendant for reasons unrelated to the Act. Further, the provision relied on by the defendant had never been judicially considered before and its claim of immunity raised a novel legal issue that required a complete evidentiary record in face of the plaintiffs' claim of alleged wrongdoing by the defendant.

[4] Also, the defendant brought a motion to strike portions of the affidavit of Councilor Bernie Di Vona prepared in support of the plaintiffs' response on the principal motions. The defendant claimed privilege with respect to the contents of an e-mail message attached as an exhibit to the affidavit. Included in the motion to strike was a request by the defendant for an order to remove plaintiffs' counsel of record.

[5] The motion to strike portions of the Di Vona affidavit and to remove the plaintiffs' solicitors was withdrawn by the defendant at the commencement of the motions proceeding.

[6] In my Reasons for Decision released May 20, 2009 dismissing the defendant's motions I awarded costs to the plaintiffs. At that time, I invited written submissions on the matter of costs if the parties were unable to agree as to the amount between themselves. The plaintiffs and defendant submitted their written cost submissions June 22 and 29, 2009 respectively, and the plaintiffs' reply submission was sent July 6, 2009.

Motions for Summary Judgment and Determination of a Question of Law

[7] On the motions for summary judgment and determination of a question of law, the plaintiffs seek costs on a substantial indemnity basis under Rule 20.06 (1) in the amount of \$169,156.30, inclusive of fees and disbursements. On a partial indemnity basis the plaintiff claims \$125,458.80. On the motion to strike the plaintiff seeks costs on a substantial indemnity basis in the amount of \$56,294.30, inclusive of fees and disbursements and on a partial indemnity basis \$39,315.80.

[8] The position of the defendant is that the plaintiffs' claim for costs on a substantial indemnity basis is unwarranted and the quantum claimed in each instance is excessive. The defendant submits that costs should be fixed and awarded on a partial indemnity basis. For comparison the defendant submitted its bill of costs. Counsel submitted, had the City been successful on the summary judgment motion it would have claimed \$29,552.85 on a substantial indemnity basis and \$22,678.60 on a partial indemnity basis. On the motion to strike the defendant would have sought \$33,972.75 on the substantial indemnity scale and on a partial indemnity basis \$25,157.19. The defendant states that it is not reasonable for the plaintiff to seek an amount on the summary judgment motion almost six times the amount the defendant would have claimed if successful.

[9] Dealing first with the motion for summary judgment and the determination of an issue of law. The plaintiff contends costs should be awarded on the basis of the application of Rule 20.06(1). The rule reads as follows:

Where, on a motion for summary judgment, the moving party obtains no relief, the court shall fix the opposite parties costs on the motion on a substantial indemnity basis and order the moving party to pay them

forthwith unless the court is satisfied that the making of the motion, although unsuccessful was nevertheless reasonable.

[10] The plaintiff argues that the defendant obtained "no relief" from the court and it was unreasonable for the defendant to have sought summary judgment of the action given the patent material facts in dispute and issues of credibility before the court. Moreover, the question of law the defendant claimed would resolve the matter before trial involved legislation that had not been judicially considered before and which required undisputed facts to determine. In this matter, the plaintiffs allege malfeasance and abuse of office and the defendant denies it. The plaintiffs contend in the circumstances of such obvious conflicting positions it was unreasonable for the defendants to have brought the motions.

[11] The defendant takes the position that the motions were not unreasonable because in its view none of the facts in dispute were material to the legal propositions it asserted would resolve the claim in its entirety. In its submissions the defendant states the following position:

Specifically, the moving party maintains that the plaintiff's cause of action as confirmed in the plaintiff's evidence only arose when amendments to s.17 of the *Oak Ridges Moraine Conservation Act*, 2001, S.O. 2001, c.31 were introduced in June 2005, which precluded the plaintiffs from any (alleged) possibility of being able to conform with the transitional criteria.

Given this assertion, it was not unreasonable for the moving party to conclude that no further evidentiary issues needed to be determined to find that s.20 of the *Oak Ridges Moraine Conservation Act* could bar the claim on the basis that either the cause of action arose as a "direct or indirect result" of the "enactment or repeal of any provision" of the Act and/or that the cause of action arose from anything done or not done in accordance with the Act.

Further, given that the cause of action can only arise from the date upon which the claim and damages arises, it is submitted that it was not unreasonable for the moving party to believe that the summary judgment motion could result in a determination that the claim was statute-barred pursuant to the *Limitations Act*, 2002, having been commenced four years after the cause of action arose.

[12] The defendant also advances the argument that because the motion was one that involved aspects of both Rule 20 and Rule 21 it would not be appropriate to specifically follow the costs consequences set out in Rule 20. Rather, the Court should apply the general cost considerations as set out in Rule 57.01. Specifically, the court should award costs in an amount that an unsuccessful party could reasonably expect to pay.

[13] In my view, the defendant's motion for a determination of a question of law was premised on the court being persuaded on the summary judgment motion that there was no

genuine issue for trial. The motions were intertwined in the manner the defendant framed its argument. The defendant was seeking summary judgment and the termination of the plaintiffs' action.

[14] I agree that the factors as set out in Rule 57.01 should apply in the overall assessment of costs, however, in my view the starting point to determine the applicable scale of costs in the circumstances of these conjoined motions is for the court to address the question of whether the summary judgment motion was reasonable as required under Rule 20.06.

[15] In *Smyth v. Waterfall* (2002), 50 O.R. (3rd) 481 (CA) at para. 20 the Court of Appeal sets out the test for reasonableness under Rule 20.06(1) as follows:

Given that the object of the Rule 20.06(1) is to discourage unmeritorious motions, the onus rests on the unsuccessful moving party to establish that its motion was reasonably brought. The inquiry that the court is to make must focus on the time when the motion was brought and whether it would be clear to the moving party, acting reasonably, on the basis of the information that it knew, or reasonably ought to have known, and the authorities which has interpreted Rule 20...that there existed a genuine issue for trial. If it reasonably appeared to the moving party that there was no genuine issue for trial then the motion was reasonably brought.

[16] The plaintiffs contend that the defendant's motion was unreasonable in light of the serious allegations of wrongdoing upon which the plaintiffs' claim was based, and the numerous issues of credibility apparent on the record before the court. Further, it was improper to ask the motion court to make a determination with respect to the application of s.20 ORMCA as a complete bar to their claim without the benefit of a full factual record, given the nature of the allegations.

[17] Although the motions were unsuccessful the defendant submits, in the absence of prior judicial authority with respect to the applicability of s. 20 ORMCA, the legal theory advanced that the provision was determinative and its application would dispose of the need of a trial, was arguable and reasonable. They rely on the case of *Risorto v. State Farm Mutual Automobile Insurance Co.*, [2003] O.J. No. 990 (S.C.J.) as analogous to this case. Winkler J. considered the application of Rule 20.06 and stated the following at para. 5:

Here the primary thrust of the summary judgment motion involved the interpretation of the provisions of the statutory conditions and the policy of insurance concerning when the limitation period began. If the contention of State Farm on the issue had been successful it would have precluded the claim advanced in the lawsuit. An important aspect of this question is whether the discoverability principle applied to these provisions. There were factual aspects to the motion, which I found required a trial. However, the summary judgment motion was based on a legal theory which I rejected but which was nevertheless

arguable and thus not unreasonable. Accordingly, the defendant is responsible for the costs of its unsuccessful motion for summary judgment, but on a partial indemnity basis.

[18] If the plaintiffs in their claim accepted, relied on or agreed the actions of the defendant arose directly or indirectly from anything done or not done by the defendant in accordance with the ORMCA, the complete immunity theory advanced by the defendant might have been considered reasonable. However, in this instance the plaintiffs' claim is based on the alleged acts and motivation of the defendant to close their applications for reasons unrelated to the ORMCA. The defendant's denial and the obvious factual disputation underscore the conclusion that there are genuine material issues that can be resolved only by a trial.

[19] The plaintiffs' claim is grounded in both negligence and *male fides*. With respect to the latter ground, the question of whether or not there was conduct which amounted to acts of bad faith or malice by the defendant is clearly a question of fact. Malice may either be inferred from direct and/or indirect evidence. In order to make a determination as to whether there was malice in the actions of the defendant the trier of fact would be required to assess the state of mind of the defendant, in this case its officials. In light of such allegations it is evident that credibility must be assessed and evidence weighed.

[20] In my view, it must have been apparent to the defendant at the time the motion was brought that a claim based in part on abuse of public office would turn by necessity on factual determinations and questions of credibility. Even if it was not apparent to the defendant at the time it initiated the motions it must have been apparent in light of the conflicting information reflected in the affidavits of Joanne Arbour, the city official who closed the applications and Cam Milani and Bernie Di Vona for the plaintiffs, as to whether the applications were closed for proper reasons or because the defendant opposed the plaintiffs' concurrent pit license application on adjacent lands. Certainly, it was apparent to the defendant's city solicitor when she acknowledged during the cross-examination on her affidavit that there were serious issues in dispute, obvious credibility issues and many areas of disagreement existing between the parties in the action over the closing of the applications. She agreed that whether the applications were active or inactive and closed properly or improperly, was a factual matter and not a legal question.

[21] In face of the conflicting positions as to when the cause of action arose and whether the closing of the applications had anything to do with the ORMCA it ought to have been clearly known by the defendant the court would need to make factual findings and assess the credibility of the participants in the circumstances.

[22] The moving party's assertion that none of the facts in dispute were material to the determination of the legal propositions it advanced is not reasonable. It is clear the plaintiffs allege bad faith on the part of the defendant and that there was an abuse of public office when their applications were closed. It is well settled that the pleadings stage is not the appropriate point to finally determine allegations of bad faith: see *Canada (Attorney General) v. Rostrust Investments Inc.*, [2007] ONCA 867. Given that counsel for the defendant would know at the time the motions were initiated allegations of bad faith and malice require factual

determinations it reasonably ought to have known by the defendant that a genuine issue for trial existed.

[23] At a minimum, the defendant would have been aware that such allegations would have required the court to make a determination based on a question of mixed fact and law. On the motion brought by the defendant no evidence is admissible. In my view, it was unreasonable in the circumstances for the defendant to have brought a matter before the motions court for a determination on a question of law in which there were obvious disputed facts.

[24] The circumstances of this case are unlike those in *Risorto*. What the defendant sought was not a matter of interpreting statutory conditions and the terms of an insurance policy, but rather the interpretation of an immunity provision, never judicially considered, in the context of a highly disputed factual background.

[25] I am not satisfied that the bringing of the motions was reasonable given the need for a court to have a full evidentiary record in order to assess whether s.20 of the ORMCA even applied in the circumstances as alleged by the plaintiffs in their pleadings. Further, there was an obvious factual dispute between the parties as to when the cause of action was discoverable, which would bear directly on a determination of whether the former six year or current two year limitation period referenced in s. 24(5) of the *Limitations Act, 2002* applied.

[26] In these circumstances, the plaintiff shall be awarded their costs on a substantial indemnity basis.

Motion to Strike

[18] I will next deal with the question of the scale of costs, which should apply to the motion to strike. The position taken by the plaintiffs as contained in their submissions are as follows:

In an effort to resolve the first motion the plaintiffs agreed to remove the contentious e-mail message which allegedly contained privileged information which had been attached as an exhibit to the Di Vona affidavit. This all took place *before* the parties incurred significant costs and began cross-examinations, exchanged factums, briefs of authorities and prepared for the hearing of the motion to strike. Despite the plaintiffs' efforts to resolve the matter, the city was intent on proceeding with its motion to strike, only to abandon the motion at the commencement of the court proceedings on February 3, 2009.

[19] The defendant's position in its response was that the plaintiffs only agreed to remove the contentious e-mail message from their responding motion record to the summary judgment motion after the motion to strike was initiated. The defendant submits that because the plaintiff conceded the primary ground upon which the motion was initiated they should only be entitled to the partial recovery of their costs.

[20] The defendant's response however, does not elucidate its reasons why it considered it necessary to continue the motion. In the absence of a reasonable explanation for continuing the process after the contentious material was removed the defendant should be held responsible for causing the plaintiffs to incur unnecessary costs. In that regard I consider the factor referred to in Rule 57.01(1) (f) as to whether any step in the proceeding was unnecessary. The defendant's failure to terminate its motion after receipt of the concession provided by the plaintiff warrants an award of costs on a substantial indemnity basis.

Quantum

[21] The defendant contends that the number of hours spent by the plaintiffs' counsel on the summary judgment motion is excessive. The defendant notes that the plaintiffs' three lawyers spent 309 hours on the summary judgment motion (and the motion to determine a question of law) compared to the 118 hours its three lawyers, clerk and student spent.

[22] Further, it asserts that a number of the costs incurred by the plaintiffs are ones that would have been incurred in the action. It cites as an example the cross-examination of the parties, which it submits will eliminate and/or reduce the necessity for further examinations for discovery. In addition, the defendant maintains that plaintiffs' cost of having obtained an expert report in support of their claim would have been necessary for trial and obtained irrespective of the motion. Those costs should not be recovered on the motions.

[23] The plaintiff defends the number of hours and costs incurred on the basis that they were necessary in order to resist a serious attack which threatened the continuation of their claim. Had the defendants been successful, the action would have been terminated. Further, the plaintiff suggests that any comparison of their bill of costs with the defendant's does not properly reflect the benefit derived by the defendant from the extensive resources at its disposal as a municipal government led by experienced in-house counsel and outside counsel.

[24] In response to the assertion that certain costs should be in the action, the plaintiff notes that the cross-examinations for the motions involved non-party witnesses, not the parties themselves. They will still be subject to discovery. With respect to retaining an expert, his affidavit was prepared to specifically address threshold issues on the summary judgment motion and answer issues raised by the expert planner for the defendant.

[25] In my assessment the costs incurred with respect to the cross-examinations and the expert report are costs incurred directly in relation to the motions brought by the defendant and should be recoverable by the plaintiff as discrete costs on the motion.

[26] In terms of assessing the number of hours claimed, Blair J.A. (ad hoc) observed in *Ramsinghani v. 1177325 Ontario Limited*, [2004] O.J. No. 3676 (SCJ Commercial List) at para. 10 that there is "a line of authorities indicating that when fixing costs, the courts should be wary of second-guessing the time spent by competent counsel in preparing for a case, unless the time is manifestly unreasonable, or so grossly excessive as to be obvious overkill, or the matter has been 'over-lawyered'; see, for example, *Basdeo (Litigation guardian of) v. University Health Network*, [2002] O.J. No. 597 (Ont. SCJ), at para. 7; *Tri-S Investments Ltd. v. Vong*, [1991] O.J. No. 2292 (Ont. Gen.Div.); *Upper Canada District School Board v.*

Conseil de District des Ecole Publiques de Langue Francaise No. 5, [2002] O.J. No. 1525 (Ont. SCJ). Further, fixing costs is not simply a mathematical exercise of simply multiplying the number of hours and the hourly rates of the lawyers involved.

[27] In exercising my discretion to determine the issue of costs in this matter I take into account the factors enumerated under Rule 57.01 (1). In particular, I consider the factors set out in subrules 57.01 (1) (c), the complexity of the proceedings, and (d), the importance of the issues. From the plaintiffs' perspective the motions brought by the defendants created a "do or die" situation with respect to its claim. If unsuccessful their claim would have been at an end. It is understandable in the circumstances considerable time, effort and resources were expended.

[28] I note by comparison, the defendant expended more time to deal with the motion to strike ultimately withdrawn, than it did with respect to the summary judgment and question of law motions. In its bill of costs on the motion to strike it cites 145.75 hours spent on a matter in which plaintiff agreed to remove the contentious information early on, as opposed to 118.2 hours spent on the motion that did proceed to hearing.

[29] It would appear that both parties devoted the time each deemed necessary to deal with the issues considered important to their interests. I do not agree with the submission that the plaintiffs' number of hours was excessive or that the matter was "over-lawyered" given the complexity of the issues addressed and the importance of the outcome of the motion to whether the action continued beyond the pleadings stage.

[30] In the result, the plaintiff is awarded costs on the summary judgment motion and the motion to determine a question of law in the amount of \$169,156.30 payable by the defendant forthwith. On the motion to strike and to remove counsel of record, the plaintiff is awarded \$56,294.30 payable by the defendant forthwith.



O'Marra J.

DATE: October 7, 2009

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:)
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Rizmi Holdings Limited and Lucia Milani) *Michael Miller and Sam De Caprio, for the*
) Plaintiffs)
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- and -)
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The Corporation of the City of Vaughan) *Andrew J. Heal, for the Defendant*
) Defendant)
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)
) HEARD: February 3, 2009

2009 CanLII 25320 (ON S.C.)

O'MARRA J.

[1] The defendant, the City of Vaughan, has brought a motion under Rule 20.04 of the Rules of Civil Procedure for summary judgment on the basis that the claim of the plaintiffs, Rizmi Holdings Limited and Lucia Milani (Rizmi) does not raise a genuine material issue for trial. Further, the defendant moves under Rule 21.01(1) (a) for a determination before trial of a question of law. The defendant claims that s. 20 of the *Oak Ridges Moraine Conservation Act*, 2001, S.O. 2001 c.31 presents as an absolute bar to the claim advanced. In the alternative, the defendant argues that the *Limitations Act*, 2002, S.O. 2002, c.24 statute-bars the plaintiffs' claim.

[2] The plaintiffs, Rizmi and Lucia Milani, commenced an action on April 25, 2008 for negligence against the City of Vaughan as a result of the defendant having closed two zoning applications in February 2003 submitted by the plaintiffs in 1989 for the re-designation of a 100-acre parcel of land within the City of Vaughan from agricultural to rural residential for future development. In September 2008 the plaintiffs delivered an amended statement of claim alleging malfeasance and abuse of public office against the City of Vaughan together with its employees

by the intentional and deliberate closing of the two zoning applications. The plaintiffs claim that the land use applications were closed on February 11, 2003 by Planning Department staff without prior notice, contrary to City Resolution 04.2.04 passed in 1989. Further, the plaintiffs assert that the city officials deliberately closed the applications in an effort to exert pressure over the plaintiffs in connection with an aggregate pit license application for an adjacent property the City vigorously opposed in an ongoing contentious hearing before the Ontario Municipal Board.

Issues:

1. Should summary judgment be granted under Rule 20.04 because there is no genuine issue for trial with respect to the plaintiffs' claim?
2. Should a determination be made under Rule 21.01 (1) (a) that the plaintiff's claim is barred by s.20 of the *Oak Ridges Moraine Conservation Act, 2001*?
3. Should a determination be made under Rule 21.01 (1) (a) that the plaintiffs' claim is statute-barred by application of the *Limitations Act, 2002*?

Background:

[3] Lucia Milani is the principal of Rizmi Holdings Limited, a land development corporation operating in the City of Vaughan. On October 12, 1989 Rizmi filed two applications with the City of Vaughan identified as Files OP.5.89 and Z.127.89 to re-designate a 100-acre parcel of land in the City from agricultural to rural residential. Prior to filing the applications Rizmi had commenced an application for a pit licence under the *Aggregate Resources Act* to extract aggregate material from adjacent lands it owned, but unrelated to the 100-acre parcel and the two zoning applications.

[4] The City opposed the granting of an aggregate pit licence to Rizmi. In an affidavit dated November 28, 2008 produced on this motion Lucia Milani states that in an effort to stop the pit licence application city councillors approached her and offered on behalf of the City to grant Rizmi favourable land zoning changes over the two land use applications if it abandoned the pit licence application. She requested a formal written agreement to that effect, however, none was provided and the pit licence matter eventually went before the OMB for adjudication.

[5] In 2001 the Province enacted the *Oak Ridges Moraine Conservation Act, 2001*, S.O. 2001, c.31 (*OMRCA*) and the Oak Ridges Moraine Conservation Plan. The Act and the conservation plan established rules and regulations to preserve and protect the Oak Ridges Moraine, an environmentally sensitive area.

[6] The lands with respect to the two applications made in 1989 are situated within the boundaries of the Oak Ridges Moraine and as a result are subject to the Act. Section 15 of the Act however, provided an exception to the ban on development in the protected area in cases where applications for re-designation and/or re-zoning had been commenced on or before November 17, 2001. The two applications initiated in October 1989 pursuant to the *Planning Act*

fell under the purview of the transitional provisions of the *ORMCA*. The effect of transitional status would have allowed Rizmi to move ahead to obtain the further necessary zoning approvals, such as plans of subdivision and Regional Official Plan Amendments and exempt the applications from the prohibitive provisions of the Act.

[7] On February 11, 2003 Ms. Joanne Arbour, Director of Community Planning for the City notified the plaintiffs by letter that the two applications had been noted closed due to "inactivity". On March 26, 2003 Cam Milani, son of Lucia Milani sent a letter on behalf of Rizmi Holdings, protesting the decision to close the applications. In the letter Cam Milani set out the following reasons as to why the decision to close was unjustified in their view:

- 1) The City is incorrect in its view that the files have been inactive, and by extension, that we are no longer interested in pursuing the approvals. It is important to note that the lands subject to these applications are located on the Oak Ridges Moraine and as such, we were unsure until recently of their status. We now know that the applications fall within the transitional provisions of the legislation and accordingly, we have begun to undertake the preparation of the studies, etc., to move the applications forward. It is unreasonable for the City to close the files due to inactivity when we were in no position to move forward due to the uncertainty surrounding the *Oak Ridges Moraine Act* and the Oak Ridges Moraine Conservation Plan.
- 2) As you are aware, we have referred OPA600 to the Ontario Municipal Board and this referral is proceeding to a hearing this summer. From the time that the City began its review of the OPA400 we have indicated our objection to the environmental policies on the basis that they will have a significant impact on the development applications we filed with the City in 1989. These applications may be impacted by the Board's decision, and as such, it is unreasonable for the City to close the files on the basis of inactivity when we are awaiting the outcome of that hearing.
- 3) It has been our understanding that the files were still considered to be active. This understanding was based in part on the memorandum from Michael De Angelis, Commissioner of Planning, dated May 24, 2002 to the Mayor and Members of Council with respect to the Committee of the Whole (Working Session) May 14, 2002, Item 3, Wood Lot Functional Assessment Study General Planning File 15.86, which identified the referenced applications as active files. There was no indication at that time that the City intended to close the files, as they were identified as being open and transitional.
- 4) On September 27, 2002, we met with City staff, Michael De Angelis and Dan Frank, to discuss specifically the environmental designations on the

property subject to the development applications. The environmental designations will have a significant impact on our development plans for the properties and we are in the process of examining the environmental significance and the boundaries for the purpose to defining the development limits. We presented Mr. De Angelis with a letter from David Simms of AGRA Earth and Environmental Limited (which is enclosed) that was written to the City Commissioner of Development Services on October 23, 2000. This letter discussed the ANSI Boundary on the lands in the above-referenced applications. Mr. De Angelis stated that he was not aware of the letter and would look into it and get back to us. We have yet to receive a response.

- 5) We were not provided with any indication from the City that it was considering closing the application files, and in fact we had every reason to believe that the files would remain active. The City should have, at the very least, contacted us before making the decision and provided us an opportunity to confirm our intention to proceed. We do not understand why the City would arbitrarily decide to close the files without first extending us that opportunity. What was the urgency?

[8] The City had a long standing policy passed by City resolution in 1989 that required notice and an opportunity for the applicant to be heard if applications were to be closed for inactivity. Policy No. 04.2.04 read as follows:

That if a land use application is inactive for a period of one (1) year that the applicant be advised that the file will be closed unless sufficient justification to do otherwise is provided by the applicants.

[9] Not having received a response to his letter and request to re-open the applications Mr. Milani spoke by telephone with Ms. Joanne Arbour on May 16, 2003 regarding the closing of the applications. Mr. Milani made notes during the conversation of its contents. On the same date at 1:28 p.m. he confirmed in an e-mail to Ms. Arbour the contents of their conversation as follows:

I want to confirm our telephone conversation of earlier today. You undertook to provide me with a response to my letter dated March 26, 2003. You indicated that there was no reason to respond because there were no questions. We disagree. Please respond to the questions in that letter and respond to each item that was bulleted and the City's position as to those arguments. Also, you indicated that you took direction from Mike De Angelis with respect to closing the files, who took advice from Jane Pepino.

[10] Mr. Milani sent a further e-mail at 2:41 p.m. to Mr. Michael De Angelis, Commissioner of Planning, to confirm another conversation he had with him that date to ensure that the matter

of the pit licence application was in no way related to the closing of the two land use applications:

You said that 'we are at the board' with respect to the licence application on adjacent lands. You implied that our application files OP:58.89 and Z.127.89 were also at the board. You said that they were adjacent applications so they are related in some sort of way. I believe I cleared up that misunderstanding. Please confirm that they are not related.

I was also very inquisitive as to why the City closed those applications and you were quite elusive, by continuously answering 'We will respond to your letter numerous times.' I was attempting to resolve this problem verbally or at the very least get a more clear understanding as to reasoning behind why the city has taken this position.

[11] Ms. Arbour responded by e-mail at 5:08 p.m. for Mr. De Angelis and herself stating that they would provide a response to his March 26, 2003 letter. There was no response or reference to the statement in Mr. Milani's e-mail that she had taken direction from Michael De Angelis with respect to the closing of the file, "who took advice from Jane Pepino". The significance of the reference to Ms. Jane Pepino, according to the plaintiffs was that at the time she was acting as external counsel to the City of Vaughan in its opposition to the plaintiffs' pit license application before the Ontario Municipal Board.

[12] On May 22, 2003 Mr. Milani was advised "the City's position remains that these files are closed" in a letter co-signed by Michael De Angelis and Joanne Arbour.

[13] At the same time Mr. Milani sought an explanation from the City officials, his mother Mrs. Lucia Milani, contacted City Councillor Bernie Di Vona to inquire about the closed applications. In turn he made inquiries of City staff, in particular Ms. Joanne Arbour to ascertain why city officials had decided to close the applications. In an affidavit sworn January 21, 2009 he indicated that no definition was provided as to what constituted "inactivity". Further, the only applications he was made aware of that had been closed by City staff due to "inactivity" were the applications made by Rizmi. The action taken by City officials to close the applications were unusual and did not fall within the normal application review and approval process as it had been explained to him by Ms. Arbour. In his discussions with Ms. Arbour he asserts that she referred to the pit lands and the fact that "inspections were ongoing" and that the closing of the applications was the "strategic best approach".

[14] Due to the manner by which the plaintiffs' application had been dealt with by City staff Councillor Di Vona and two other councillors put forward a resolution on March 8, 2004 to order the City Manager and/or Commissioner of Planning on behalf of the City to immediately inform the senior tier government, Region of York that the applications were "open" and considered "transitional". The resolution of City council dated March 8, 2004 read as follows:

The City Manager and/or Commissioner of Planning inform the Region of York immediately that applications, files, OP.58.89 and Z.127.89 are open and are considered 'transitional' applications according to the definition under the *Oak Ridges Moraine Conservation Act/Plan* and should be included as such in any modifications to Regional Amendment 41 as requested by the Minister of Municipal Affairs and that notice be given to the applicant to the foregoing affect.

[15] The applications were declared open by the resolution and the City requested that the Region of York declare the applications as transitional. However, the Region declined to list the applications as transitional on the basis that the applications did not include a plan of subdivision or a regional official plan amendment application (ROPA). Further, in June 2004 the Province amended the transitional provisions of the *Oak Ridges Moraine Conservation Act, 2001* retroactively to December 16, 2003. The effect of the retroactive amendment precluded Rizmi from obtaining the further approvals and consequently eliminated any possibility of being able to conform with the transitional criteria.

Position of the Parties:

[16] In order to understand the relative positions of the parties it is necessary to set out several of the provisions of the *Oak Ridges Moraine Conservation Act, 2001*.

[17] Section 7(1) of the Act provides as follows:

A decision that is made under the *Planning Act* or the *Condominium Act, 1998* or in relation to a prescribed matter, by municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the government of Ontario, including the Ontario municipal board, shall conform with the Oak Ridges Moraine Conservation Plan.

[18] Section 15 of the Act has transitional provisions that limit the application of section 7. Section 15 provides as follows:

15. (1) Section 7 applies with respect to all applications, matters or proceedings commenced on or after November 17, 2001.

(2) In making a decision under the *Planning Act* or section 9 of the *Condominium Act, 1998* or in relation to a another prescribed matter, a municipal council, local board, municipal planning authority, minister of the Crown or ministry, board, commission or agency of the Government of Ontario, including the Ontario Municipal Board, shall conform to the *prescribed provisions of the Oak Ridges Moraine Conservation Plan* as if the Plan were in force on or before the date the application, matter or proceeding was commenced, if,

- a) the application, matter, or proceeding was commenced before November 17, 2001; and
- b) on November 17, 2001, no decision has been made in respect of the application, matter or proceeding.

(3) Section 7 does not apply to an application, matter or proceeding commenced before November 17, 2001 if a decision has been made in respect of the application, matter or proceeding before that date.

[19] The plaintiffs argue, as a result of the operation of s. 15 an application filed before November 17, 2001 in respect of which no decision was made was not subject to all provisions of the *ORMCA*, but rather, only to the “prescribed provisions” of the Oak Ridges Moraine Conservation Plan. As long as the prescribed provisions of the Plan could be satisfied the Act could not preclude development on the moraine. On February 11, 2003 when the applications were closed by the defendant s. 17(1) of the *ORMCA* provided as follows:

If a decision is made under the *Planning Act* or s. 9 of the *Condominium Act*, 1998 with respect to land to which the Oak Ridges Moraine Conservation Plan applies is conditional upon a further approval under either of those Acts, the decision of the application for the further approval shall be made in accordance with the same requirements of the Act that applied to the original decision.

[20] On June 24, 2004, s. 17(1) of the *ORMCA* was amended retroactively to December 16, 2003 to specifically require a decision made under ss. 51 or 53 of the *Planning Act*. Consequently, the amendment to s. 17(1) narrowed the transition provisions under the Act to apply only to decisions with respect to plans of subdivision or consents made under ss. 51 or 53 of the *Planning Act*. Only those decisions in respect of subdivision of land or consents under ss. 51 or 53 of the *Planning Act* conveyed the benefit of transitional status.

[21] It is the position of the plaintiffs that the closing of the applications on February 11, 2003 denied them an opportunity to obtain a decision which would have granted them transitional rights under the amended s. 17. Moreover, they contend they would have had sufficient time to complete their application and obtain a decision prior to the effective date of the amendment, December 16, 2003 had it not been for the City closing their applications on February 11, 2003. Nine months would have been sufficient time to do so.

[22] In support of their position that they would have been able to complete their applications and obtain a decision within the nine month time frame they rely on the affidavit evidence of Mr. Robert Lehman, an urban planner with 37 years experience with planning matters in the Province of Ontario. Contrary to the defendant’s position that the applications were dormant Mr. Lehman, in an affidavit expressed the view that at the time the applications were closed the plaintiffs were actively pursuing the development of the subject lands. Such activity was evidenced by their continuing attempts to clarify the official plan amendments (OPA400) of the City of Vaughan

and Region of York (OPA600), both relevant to the future development of the subject lands. Mr. Lehman provided the following observations at paragraphs 41 to 47 of his affidavit sworn November 28, 2008:

41. Rizmi's actions were those of a diligent developer, from 1989 to 2004, continually dealing with a series of new policy documents, each of which significantly affected the development potential of its lands including OPA400, the regional plan, OPA600, the Act and the Plan.

42. At no point did Rizmi effectively, notionally or formally abandon its 1989 applications but rather its actions over the following 15 years could be characterized as responding to new planning documents, each of which increasingly proposed to limit development on portions of the subject lands.

43. Given the nature of the new planning policies in OPA400, OPA600, and regional official plan, Rizmi was not in a position to move forward with a plan of subdivision until the prescribed provisions of the plan were finalized as the detail of which lands could be developed remained unresolved until that date. The prescribed provisions of the Act over-rode any municipal planning policies and could be used by Rizmi as the basis for environmental analysis leading to a plan of subdivision.

44. The process of dealing with the major planning policy documents continued over a sufficiently lengthy period of time that the extension of the urban boundary encompassing lands served by pipe services reached as far north as the Rizmi property, on the east side of Bathurst Street and the west side of Dufferin Street.

45. As of the winter of 2002, following final determination of the prescribed provisions of the plan, Rizmi was preparing to undertake the necessary studies leading to a plan of subdivision and ROPA (regional official plan amendment) and that the applications could have been feasibly prepared, submitted and processed prior to December 16, 2003. It is my understanding as a planner, that the submission of draft plan and ROPA applications would crystallize the relevant policy frame work as determined by the *Clergy* principle.

47. Alternatively, it is also my opinion that the draft plans and the ROPA could have been feasibly prepared, submitted and processed through to a decision, or OMB appeal within a nine month period. Such abilities of process were eliminated when the applications were closed.

[23] It is the defendant's position that the applications were quite simply inactive. The applications remained dormant for 14 years. In the absence of any documentation being

submitted by the plaintiffs other than the original applications in 1989 they were formally closed by planning staff for inactivity. Rizmi required planning studies that were never submitted in conjunction with the applications to address appropriately the planning issues surrounding a change in land use. In the absence of sufficient materials having been submitted to the City, the City never made a determination as to the merits of the applications. Further, land use intensification in the Oak Ridges Moraine was not supported as a matter of provincial policy.

[24] The defendant claims, even though the applications had been noted closed, City Council took corrective action by declaring the applications open by resolution at the request of the plaintiffs. Moreover, it was the Region of York and not the City of Vaughan that declined to list the applications as transitional. On being denied transitional status their proper course of action was to appeal the refusal to the Ontario Municipal Board as permitted under the *Planning Act*, not commence an action against the City.

[25] The City denies any ulterior motive in closing the applications. The defendant relies on the affidavit and examination of Ms Arbour wherein she states that the closing of the applications due to inactivity was on her sole direction and administrative authority. Notwithstanding the wording of the policy requiring applicants to be advised “the file will be closed unless sufficient justification to do otherwise is provided” she believed the process of informing Rizmi by letter after the decision had been made to close the file was in compliance with the City policy. She denied there was any outside influence in the decision to close the applications and not reopen them.

Summary Judgment Motion

1. Should summary judgment be granted under Rule 20.04 because there is no genuine issue for trial with respect to the plaintiffs’ claim in negligence and malfeasance?

[26] Rule 20.04 provides that summary judgment is to be granted where the court is satisfied that there is no genuine issue for trial with respect to a claim or defence. The general purpose of the summary judgment motion, as noted in *Dawson v. Rex Craft Storage and Warehouse Inc.*, [1998] O.J. No. 3240 is to “weed out cases at the pre-trial stage when it can be demonstrated clearly that a trial is unnecessary”.

[27] In the oft quoted passage from *Irving Ungerman Limited v. Galanais* (1991), 4 O.R. (3rd) 545 (CA) Morden, ACJO describes the phrase “genuine issue for trial” as follows:

It is safe to say that “genuine” means not spurious and, more specifically that the words “for trial” assist in showing the meaning of the term. If the evidence on a motion for summary judgment satisfies the court that there is no issue of fact which requires a trial for its resolution, the requirements of the rule have been met. It must be clear that a trial is unnecessary. The burden is on the moving party to satisfy the court that the requirements of the rule have been met. Further, it is important to

keep in mind that the court's function is not to resolve an issue of fact but to determine whether a genuine issue of fact exists.

[28] A fact is "material" if the result of the proceeding turns on its existence or non-existence. In *Ungerma*n the Court of Appeal makes clear that the judge on a summary judgment motion is only to determine whether a genuine issue exists about a material fact. Once it is determined that a material fact is in dispute it is not for the motions court judge to resolve. It is a matter for the trier of fact at trial to resolve. However, a motions court judge is required to take a hard look at the evidence in determining whether there is or is not a genuine issue for trial (see *Pizza Pizza Limited v. Gillespie* (1990), 75 O.R. (2d) 225 and *1061590 Ontario Limited v. Ontario Jockey Club*, [1995] O.J. No. 132 (CA)).

[29] The moving party bears the legal or persuasive burden to satisfy the court that there is no genuine issue for trial whereas the responding party has an evidentiary burden to respond with evidence setting out "specific facts" showing that there is a genuine issue for trial. There is no onus on the responding party. However, where evidence presented by the moving party establishes *prima facie* that there is no genuine issue for trial the responding party assumes the evidentiary burden of presenting evidence to establish that the claim has a "real chance of success". The responding party may not rest on unsupported allegations but must "lead trump or risk losing" (see *Guarantee Co. of North America v. Gordon Capital Corp.*, [1999] 3 S.C.R. 425).

[30] In examining the evidence the court is not to assess credibility, weigh evidence, find facts or make factual inferences, all of which are functions reserved for the trier of fact (see *Dawson v. Rex Craft Storage and Warehouse Inc.*, *supra* and *Aguonie v. Galion Solid Waste Materials Inc.*, [1998] O.J. No. 459).

[31] There has been some suggestion of late that the Court of Appeal has stepped back from the rigid application of the principle that motion court judges are not to weigh or assess the credibility of a parties' position and their evidence (see *Select Acoustics Supply Inc. v. College of Physicians and Surgeons of Ontario*, [2008] O.J. No. 2163, (Ont. Div. Ct.) at paragraph 41). However, in my assessment of the circumstances of the referenced cases, such a deviation from the principle may occur in situations where there is no evidence or it lacks an air of reality and should be accorded no weight. In *Baldwin v. Daubney*, [2006] O.J. No. 3824 the Court of Appeal agreed with the motion court judge's assessment that there was no evidence of a fiduciary relationship upon which the claim was based and in *Goldman v. Devine*, [2007] O.J. No. 1491 (C.A.) agreed with the dismissal where the motions judge found the evidence adduced by the plaintiffs lacked an air of reality in the absence of producing corroborative documents said by plaintiffs to exist.

Rule 20.04 Analysis:

[32] There are a number of genuine material issues in dispute in this matter, some of which require an assessment of credibility and others inferential determinations based on circumstantial evidence.

[33] The circumstances that led to the closing of the applications and the motivation of the defendant to do so is material to the plaintiffs' claim and highly contested in this matter. Watt, J.A. observed in *Esse v. Bank of Montreal*, [2008] O.J. No. 3675 (C.A.) that sometimes, the issue in dispute on a summary judgment motion has to do with knowledge or state of mind of the party, which at times, is a notoriously difficult fact for an opposing party to prove. In many instances it cannot be proven by direct evidence and a party may rely on circumstantial evidence.

[34] In this instance, the defendant maintains on the evidence of Joanne Arbour that the applications were closed due to inactivity, albeit without notice, as an administrative act under her authority. Whereas, the plaintiffs rely on the evidence of Cam Milani and Bernie Di Vona, who recount their respective discussions in March 2003 with Ms Arbour and other staff, together with the contemporaneous written records of their discussions as circumstantial evidence that an ulterior motive existed on the part of the defendant to close the land use applications on the advice of others for reasons unrelated to the applications. They seek to rely on this evidence to establish that the defendant's true intent was to exert pressure on them not to pursue their pit license application.

[35] In addition, there is a significant factual dispute as to whether the applications were in fact inactive or active as evinced by the conflicting evidence of Ms Arbour, Mr. Cam Milani and the plaintiffs' expert in urban planning and land use, Mr. Robert Lehman.

[36] The plaintiffs' claims of action will ultimately turn on the question of whether the applications were closed due to inactivity or factors unrelated to the actual status of the applications, and whether it caused a lost opportunity to develop the subject lands. I cannot conclude that the evidence proffered on the motion by the plaintiffs is so lacking in credibility or lacks an air of reality such that it should be accorded no weight. Any assessment is best left to the determination of the trial judge with the benefit of *vive voce* evidence. Where there is a genuine issue of credibility, a trial is required.

[37] The defendant acknowledges in its factum and submissions that the administrative or operational decisions made by Joanne Arbour in February 2003 to close the applications and not to reopen them in conjunction with Mr. De Angelis in May 2003, despite the plaintiffs' request are "capable of being pleaded as negligence". There is an evidentiary basis for Rizmi to argue the harm caused by the decision to close their zoning applications with respect to lands recently subject to highly restrictive environmental protection legislation was both proximate and reasonably foreseeable.

[38] The defendant counters by suggesting that there are public policy reasons to negative any duty of care it may owe the plaintiff (see *Ann Merton v. London Borough Council*, [1977] 2 W.L.R. 1024 (H.L.)).

[39] In my view, its position is untenable in the circumstances alleged. The Court of Appeal in *Moin v. Town of the Blue Mountains*, [2000] O.J. No. 3039 noted that there is a distinction between legislative and quasi-judicial acts of a municipality for which no liability is owed to a particular person and operational acts, for which it can be held liable on the basis of the principles in *Hedley Byrne*. Relying on the comments of Laskin J. in *Welbridge Holdings Limited v. Greater Winnipeg (Municipality)* (1970), 22 D.L.R. (3rd) 470 (SCC) at p. 477 it was confirmed that municipalities can be held liable in negligence for operational acts:

The defendant is a municipal corporation with a variety of functions, some legislative, some with also a quasi-judicial component (as the Wiswell case determined) and some administrative or ministerial, or perhaps better categorized as business powers. In exercising the later, the defendant may undoubtedly (subject to qualification) incur liabilities in contract and in tort, including liability in negligence.

[40] Whether negligent or not, the defendant submits no trial is required to determine if it caused damages to the plaintiffs because the plaintiffs never had any accrued or vested interests taken away by the actions of the defendant or its staff.

[41] In response, the plaintiffs submit that the negligence and/or malfeasance of the defendants caused them to lose “a reasonable probability of realizing some economic benefit”. They claim they are entitled to compensatory damages for lost opportunities due to the negligence of the defendant regardless of whether they had a legitimate entitlement or property interest at the time. In *Rodaro v. Royal Bank*, [2002] O.J. No. 1365 (CA) at paragraphs 54 and 55 the Court of Appeal stated the following:

RBC and Barbican submit that Spence J.’s lost opportunity approach to establish that Mr. Rodaro suffered damages as a result of disclosure of the confidential information is flawed. *They argued that damages for lost opportunity are available only if a plaintiff is deprived of a legal entitlement of property interest.*

The authorities relied on by RBC and Barbican do not support the proposition advanced by them. *If as a result of the defendant’s breach of contract or negligence, a plaintiff loses a reasonable probability of realizing some economic benefit, the plaintiff is entitled to be compensated for that lost opportunity.* The quantification of that loss may have to take into account, contingencies and variables personal to the plaintiff and will often prove difficult. Nevertheless, the plaintiff is entitled to compensation. (emphasis added)

[42] In *Cishecki v. IBM Canada*, [2003] O.J. No. 364 at paragraph 5 the Court of Appeal stated that where the wrongful conduct of a defendant deprives a plaintiff of a chance of profit the plaintiff is entitled to receive damages. The question of quantum is dependant on the

circumstances. Even though the chances of profit may be considered low it becomes a matter of assessing the amount of damage based on the degree of chance the plaintiff would have earned of the amount claimed but for the defendant's breach of contract, or other wrongful act. In this instance, the wrongful act claimed on is the negligent conduct or malfeasance and abuse of public office by the City.

[43] Moreover, it may be that punitive damages are a consideration in this case. If the wrongful act claimed as the basis for malfeasance action is found to be reprehensible, malicious, high-handed and deserving of condemnation such damages could be the result (see *Vorvis v. Insurance Corporation of British Columbia*, (1989) 58 D.L.R. (4th) 193 (S.C.C.) in which McIntyre J. held that punitive damages are recoverable if the defendant's conduct is itself "an actionable wrong"; see also *Whiten v. Pilot Insurance Co.*, [2002] S.C.R. 595 and *Honda Canada Inc. v. Keays*, [2008] S.C.J. No. 40).

[44] The function of motions court judge is not to resolve factual disputes but only determine whether a genuine material factual dispute exists that makes a trial necessary. In my view, there are significant disputations over material factual issues in this action with respect to the closing of the applications and the question of damages that can only be resolved on an assessment of a full evidentiary record at trial.

Rule 21.01 Motion:

2. Is the plaintiff's claim barred by s. 20 of the *Oak Ridges Moraine Conservation Act, 2001*?

[45] Under Rule 21.01(1) (a) a party may move before a judge for a determination of a question of law raised by pleadings in an action where the determination of the question may dispose of all or part of the action, substantially shorten the trial or result in a substantial savings of costs.

[46] Even though the defendant submits that the actions of its officials and employees are capable of being pleaded as negligent it claims it enjoys complete immunity as a result of the operation of s. 20 of the *Oak Ridges Moraine Conservation Act, 2001*. Section 20 of the Act provides as follows:

- 20(1) No cause of action arises as a direct or indirect result of,
 - a) the enactment or repeal of any provision of this Act;
 - b) the making or revocation of any provision of the regulations; or
 - c) anything done or not done in accordance with this Act or the regulations.
- (2) No costs, compensation or damages are owing or payable to any person and no remedy, including but not limited to a remedy in

contract, restitution, tort or trust is available to any person in connection with anything referred to in clause 1(a), (b) or (c).

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, that is directly or indirectly based on or related to anything referred to in clause 1(a), (b) or (c) may be brought or maintained against any person.

(4) Subsection 3 applies regardless of whether the cause of action on which the proceeding is purportedly based arose before or after the coming into force of this Act.

[47] The prohibition against any legal action in s. 20 of the *ORMCA* extends to anything done or not done in accordance with the Act. The limitation on remedies found in s. 20 specifically applies in the words “no cause of action arises” against any “person”, which includes “municipalities and their employees and agents”.

[48] The position of the plaintiff is that s. 20 does not afford the immunity the defendant claims it provides, principally because the alleged acts of negligence and malfeasance in public office of the City’s officials and employees had nothing to do with the operation of the *ORMCA*. The plaintiffs rely on the decision of Cumming J. in *Reclamation Systems Inc. v. The Honourable Bob Rae, et al.*, [1996] O.J. 133 (Ont. Gen. Div.) for the proposition that such immunity provisions do not apply to a cause of action based on conduct of a defendant taken independent of the legislation.

[49] In *Reclamation Systems Inc., supra*, the plaintiff brought an action for damages after the *Environmental Protection Act (EPA)* was amended to prohibit the establishment or expansion of waste disposal sites in the Niagara Escarpment Plan area contrary to certain declarations made by the Premier relied on by the plaintiff. The defendants brought a motion for summary judgment on the basis that s. 27(4) of the *EPA* barred the plaintiff’s claim. Section 27 of the *EPA* states as follows:

27(1) No person shall use, operate, establish, alter, enlarge, or extend,

- a) a waste management system; or
- b) a waste disposal site, unless a certificate of approval or provisional certificate of approval therefore has been issued by the director and except in accordance with any conditions set out in such certificate.

(2) Despite subsection (1), no person shall use, operate, establish, alter, enlarge or extend a waste disposal site in the Niagara Escarpment Plan area as set out in the Niagara Escarpment Plan,

unless the director has issued a certificate of approval or provisional certificate of approval before this subsection comes into force.

- (3) Subsection (2) does not apply with respect to,
 - a) a transfer station or recycling facility, including a composting site, which receives waste only from the local municipality and which it is located; or
 - 2) in the case of a site approved before this subsection comes into force, a proposed use, operation, alteration, enlargement or extension of a waste disposal site which will not result in a greater area at a waste disposal site being covered with waste than permitted under the existing approval.
- (4) No proceeding directly or indirectly based upon the prohibition in subsection (2) may be brought against the Crown in right of Ontario, the government of Ontario, any member of the executive council or any employee of the Crown or government.

[50] The court in *Reclamation Systems Inc.* concluded that s.27(4) of the *EPA* did not bar the plaintiff's claim because the claim was not based on the enacted prohibition but rather the claim was grounded in conduct independent of the Act. The court concluded that the plaintiff's cause of action arose because of the change in legislation, however it was not "based upon" the prohibitions enacted. Rather, it was based on a representation or promise made by the Premier, not met because of a change of government policy reflected in the legislative enactment. The court stated at paragraph 101:

The plaintiff's theory as to its cause of action is based upon (what it asserts are) a negligent misrepresentation or breach of non-bargain contract and the breach is evidenced by s.1 (2) of Bill 62 but is not "based upon" that provision within the meaning of s.1 (4) thereof.

[51] On its face s.20 of the *ORMCA* provides comprehensive immunity to the defendants with respect to anything done or not done in accordance with the Act or its regulations. However, the plaintiffs' submit that their cause of action in negligence and malfeasance in public office is not based on the actions of the defendant with respect to anything done or not done in accordance with the Act or its regulations. Rather, its action arises as a result of the defendant's conduct independent of any requirements of the legislation. The closing of the applications and delay in re-opening them by the defendant occurred either as a result of negligence or for the oblique purpose of exerting pressure on them with respect to the pit license application. Simply put, the *ORMCA* did not require the defendant to close the applications.

[52] In support of their argument the plaintiffs note that Joanne Arbour, who purportedly closed the applications as an administrative function due to inactivity under a City policy, acknowledged that the closing of the applications had nothing to do with the *Oak Ridges Moraine Conservation Act, 2001*. During the cross-examination of Ms Arbour on her affidavit, January 27, 2009 at page 86 she confirms the applications were closed as a matter of City policy and not the Act:

Q. When you close whatever files you close throughout 2002 for being inactive, when you close them that had nothing to do with the Oak Ridges Moraine Conservation Act, I assume?

A. As I said before, I am not sure under what circumstances the files got closed, and if any of them were related.

Q. Well, the Act didn't require any of the files to be closed, did it?

A. No.

Q. So when you say: "...applications which were incomplete and which had been inactive for over a year were closed in accordance..." it was with City policy...

A. Yes.

Q. ...it had nothing to do with the Act?

A. Yes.

Q. Correct?

A. Yes.

[53] A motion under Rule 21.01(1) (a) to dispose of an action on a question of law must meet a stringent test. Assuming that the facts as stated in the claim can be proven and the plaintiffs have a valid cause of action, is it "plain and obvious" as to how the question of law should be determined.

[54] Section 20 of the Act does not apply to acts of negligence, malfeasance or bad faith conduct alleged to have been committed for reasons or purposes unrelated to the Act. If it can be established that the acts or conduct of the defendant or its staff that gives rise to the plaintiffs' claim had nothing to do with the *ORMCA* then s. 20 provides no protection.

[55] Even if the actions of the defendant are construed to have been done or not done in accordance with the Act or the regulations, while s. 20 (2) and (3) would bar an action based in negligence it does not specifically bar an action premised on *male fides* or bad faith conduct.

[56] In my view, it is not plain and obvious that s. 20 of the *OMRCA* is a bar to the actions as framed in negligent conduct independent of the Act or *male fides*, whether or not in accordance with the Act.

[57] Wilson J. in *Hunt v. Carey Canada Inc.* (1990), 74 D.L.R. 4321 (SCC) at p.336 stated the following:

As in England, if there is a chance that the plaintiff might succeed then the plaintiff should not be “driven from the judgment seat”. Neither the length and complexity of the issues, the novelty of the cause of action, nor the potential for the defendant to present a strong defence should prevent the plaintiff from proceeding with his or her case. Only if the action is certain to fail because it contains a radical defect...should the relevant portions of a plaintiff’s statement of claim be struck out...

[58] The provision has never been judicially considered. The plaintiffs’ claim of malfeasance and abuse of public office and the defendant’s claim of immunity raises a novel legal issue that requires a complete evidentiary record. In *R.D. Belanger and Associates Limited v. Stadium Corp. of Ontario Limited* (1991), 5 O.R. (3rd) 778 at page 782 the Ontario Court of Appeal in applying *Hunt v. Carey Canada* observed that matters of law which have not been settled fully in our jurisprudence should not be disposed at the motions stage of the proceedings, (see also *Romano v. D’Onofrio*, [2005] O.J. No. 4969 (C.A.)).

[59] Moreover, this is not a case where there is only a genuine issue of law, the determination of which is independent of any factual determinations. In *Moriarity v. Slater*, [1989] O.J. No. 451 (HC) White J. stated with respect to the remedial provisions of s. 247 of the *Ontario Business Corporations Act, 1982*, S.O. 1982, c. 4:

It would seem to me that the court should exercise circumspect caution under rule 21.01(1) (a) of the Rules of Civil Procedure when it senses a condition of doubt such as I have, and when it is of the opinion as I am that factual underpinnings which can only come from a full trial are necessary for a valid construction of the statutory words..

[60] On a summary judgment motion circumspection must also prevail when there is reason to doubt the applicability of the legislation cited by the moving party to be determinative.

[61] The observation made by the Supreme Court of Canada in *Hunt v. Carey Canada* is apposite in this instance as well:

Where a statement of claim reveals a difficult and important point of law, it may well be critical the action be allowed to proceed. Only in this way can we be sure that the common law in general, and the law of torts in particular, will continue to evolve to meet the legal challenges that arise in our modern industrial society.

[62] I shall not deny the plaintiffs the opportunity to have their claims heard where there is some evidence that the actions of the defendant's staff had nothing to do with the *OMRCA* or where the immunity provision may not provide a shield to acts of *male fides*. In my view, whether s. 20 of the Act provides the defendant with immunity can be determined only after a full evidentiary record has been provided at trial.

3. Is the plaintiff's claim statute barred by application of the *Limitations Act, 2002*?

[63] It is the position of the defendant that the plaintiffs' cause of action occurred on June 24, 2004 when the transitional provision of the *Oak Ridges Moraine Conservation Act, 2001* was amended. The plaintiffs' action commenced April 25, 2008 is outside of the two year limitation period in the *Limitations Act, 2002* and statute barred. However, the plaintiffs contend they discovered their claim in March 2003 when the City advising them that the applications had been closed. Accordingly, s.24 (5) of the *Limitations Act, 2002* applies, which provides as follow:

If the former limitation period did not expire before January 1, 2004 and if a limitation period under this Act would apply where the claim based on an act or omission that took place on or after that date, the following rules apply:

1. If the claim was not discovered before January 1, 2004, this Act applies as if the act or omission had taken place on that date.
2. If the claim was discovered before January 1, 2004, the former limitation period applies.

[64] In this instance, it is to the plaintiff's advantage to claim discovery at an earlier date as opposed to a more recent date. Having discovered their claim before January 1, 2004 the "former limitation period" of six years provided in s. 45 (1) (g) of the *Limitations Act*, as it read immediately before its repeal, would apply to their claim.

[65] When the cause of action was discovered is a factual determination. Rule 21 is applicable only in instances involving pure questions of law where there is no factual dispute or do not require a full factual background for the determination. The observation made by Osborne, J.A. in *Boutin v. The Co-operators Life Insurance Company* (1999), 42 O.R. (3rd) 612 (C.A.) at p.618 in the context of the applicability of Rule 21.01(1) (a) and a limitation period contained in a group disability policy applies in this instance:

I do not think that the issue whether the policy limitation period is a bar to the plaintiff's action is a question of law as should have been resolved on a Rule 21.01(1) (a) motion.

[66] Further, in *Aguonie v. Galion Solid Waste Material Inc.*, *supra* at p.174 the Ontario Court of Appeal indicated that it is not appropriate for a motions judge to resolve the application of the discoverability rule where it is central to the resolution of the matter. The question of whether the

former limitation provision or that as contained in the *Limitations Act, 2002* applies in this matter will depend on a factual determination. Where there is a significant factual component to be determined the matter should be left for trial.

The Result:

[67] In the result, the defendant's motions for summary judgment to dismiss the plaintiffs' claims under Rule 20.04 and Rule 21.01(1) (a) are dismissed.

[68] Costs are awarded to the plaintiffs. If the parties are unable to agree as to the amount of costs between themselves they may make written submissions with respect to the application of Rule 20.06 (1) of no more than two pages in length together with a draft cost outline within 30 days of the date of this judgment.

O'Marra J.

Released: May 20, 2009

COURT FILE NO.: 08-CV-353637PD2
DATE: 2009/05/20

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

Rizmi Holdings Limited and Lucia Milani

Plaintiffs

- and -

The Corporation of the City of Vaughan

Defendant

REASONS FOR JUDGMENT

O'Marra J.

Released: May 20, 2009

2009 CanLII 25320 (ON S.C.)

Gino Ruffolo
149 Fieldgate Drive
Vaughan, ON L6A 1K4

November 3, 2009

Budget Committee
City of Vaughan Council
2141 Major MacKenzie Dr.
Vaughan, ON L6A 1T1

**RE: \$150M LAWSUIT ABSENT FROM FINANCIALS
AND
\$225,450.60 COST AWARD ALSO MISSING**

Written Deputation Budget Committee Meeting November 3, 2009

Dear Members of the Budget Committee and Vaughan Council,

I am respectfully asking that the Budget Committee along with the entire Vaughan Council receive this very important written submission.

After reviewing the Draft 2010 Operating Budget Report, I am extremely troubled that the City Managers report to the Budget Committee does not account for a **\$150 Million lawsuit** against the City, and a recent cost award against the City for nearly a **quarter of a million dollars**.

On September 15, 2009 I wrote to Clayton Harris, City Manager, and advised him in part the following:

“accruing for this lawsuit is not debatable, and disclosure is an absolute. You failed to disclose the lawsuit. You acknowledge you discussed it, however proper filing of audited statements does not give any weight to oral discussions, it states that you must have full disclosure.”

The Minister of Municipal Affairs relied on your statements, and yet you now admit that you failed to disclose the significant risk of a major lawsuit. In my opinion, this lawsuit could result into a serious financial burden for the city, which in turn is then placed on the stakeholders, the taxpayer. Failure to disclose is a serious issue when it comes to corporations that manage and use public money.

Gino Ruffolo
149 Fieldgate Drive
Vaughan, ON L6A 1K4

The courts have ruled that this lawsuit has merit and will be heard. The fact that the cost award was for the entire amount submitted by Rizmi Holdings (the Plaintiff), speaks volumes to the courts view of the merits of the \$150 M lawsuit.

Based on the above it is inconceivable that the City would not accrue for this lawsuit in the Budget report.

The Budget Committee and Vaughan Council must remember their fiduciary responsibility to the taxpayers and residents of Vaughan.

As a resident and taxpayer of the City of Vaughan, I respectfully ask that the Budget Committee and Vaughan Council instruct staff to follow accounting standards set out in GAAP, and include the potential liability that the Rizmi Holdings \$150 Million lawsuit has on the Draft 2010 Operating Budget Report. I must remind you that it is required under the rules of GAAP that all significant risk issues must be fully disclosed.

Further, if this Council is truly committed to transparency and accountability, it must begin to disclose all liability in the Draft 2010 Operating Report. This would include the names of the parties involved, the specific circumstances at issue, all costs incurred to date and an estimate of future costs for all legal proceedings before the courts as well as the Ontario Municipal Board.

The residents, taxpayers and electors deserve to be fully informed on how this Council governs and makes decisions.

Sincerely,

"Gino Ruffolo"

Gino Ruffolo
Resident, Taxpayer, Elector and Constituent
City of Vaughan

Copy: Minister of Municipal Affairs Jim Watson

CITATION: Vaughan v. Rizmi Holdings, 2010 ONSC 1563

COURT FILE NO.: 259/09

DATE: 20100315

SUPERIOR COURT OF JUSTICE – ONTARIO – DIVISIONAL COURT

RE: THE CORPORATION OF THE CITY OF VAUGHAN, Appellant (Defendant)

AND:

RIZMI HOLDINGS LIMITED and LUCIA MILANI, Respondents (Plaintiffs)

BEFORE: JENNINGS, McCOMBS and MOLLOY JJ.

COUNSEL: Andrew Heal and Bradley Phillips for the Appellant

Michael Miller and Michael Arbutina, for the Respondents

HEARD: March 11, 2010

ENDORSEMENT

[1] This is an appeal by the City of Vaughan (“the City”) from the decision of O’Marra J. dated May 20, 2009. The City had brought a motion under Rules 20 and 21 seeking summary judgment and an order dismissing all claims of the plaintiffs. O’Marra J. dismissed that motion and, in a later decision based on written submissions, awarded costs against the City in the amount of \$169,156.30 all inclusive.

[2] The decision of the motion judge is interlocutory and required leave to appeal. Leave to appeal was granted by Dambrot J. on one narrow issue: whether s. 20(1)(a) of the *Oak Ridges Moraine Conservation Act*¹ (“ORMCA”) provided the City with complete immunity to the plaintiffs’ claim.

[3] The plaintiffs own a 100-acre piece of property in Vaughan within the Oak Ridges Moraine. In 1989, the plaintiffs filed two zoning applications with the City seeking amendments to the Official Plan and zoning by-laws. Ultimately, the plaintiffs intended to develop the land into a residential subdivision. In February 2003, without notice to the plaintiffs, the City closed the two applications, allegedly for inactivity. The plaintiffs took immediate steps to object to

¹ 2001 S.O. 2001 c. 31, as amended, ss. 17 & 20

this, and ultimately the City acceded to their demands and re-opened the applications in March 2004.

[4] In June 2004 amendments were made to s. 17 of the *ORMCA*, retroactive to December 13, 2003. There was evidence before the motion judge that this amendment made it completely impossible for the plaintiffs to develop their land as intended. There was also evidence filed by the plaintiffs that but for the City's actions in closing their applications and not re-opening them for 13 months, the plaintiffs could have been in a position to do what was required in the subdivision approval process prior to the effective date of the amendments in December 2003; and as a result, the new legislative regime, which made approval of their planned subdivision impossible, would not have applied to their lands.

[5] The plaintiffs commenced an action against the City for \$151 million alleging negligence as well as malfeasance and abuse of public office. The plaintiffs allege that City officials deliberately closed the applications to exert pressure on them in connection with an extraneous matter, and therefore for an improper purpose. The plaintiffs claim that as a result of the City's improper conduct they lost the opportunity to develop the lands.

[6] The appeal before us is based on the operation of s. 20(1)(a) of the *ORMCA*, which the City asserts is a complete bar to the plaintiffs' claim and about which it asserts there are no disputed facts.

[7] It is useful at this point to consider the whole of s. 20, which states as follows:

20. (1) No cause of action arises as a direct or indirect result of,
- (a) the enactment or repeal of any provision of this Act;
 - (b) the making or revocation of any provision of the regulations; or
 - (c) anything done or not done in accordance with this Act or the regulations.

[8] The decision of O'Marra J. focused entirely on s. 20(1)(c) of the *ORMCA*. He determined that there were disputed facts and a genuine issue for trial as to whether the actions of the City were independent of the legislation and *mala fides*, such that the provisions of s. 20(1)(c) would not provide immunity.

[9] Before Dambrot J. on the leave application, and before us on this appeal, the City argued that the plaintiffs' cause of action stems from the repeal and enactment of more stringent transitional provisions in the *ORMCA*, effective December 13, 2003. The City argued that the plaintiffs' cause of action did not arise until all elements of their cause of action had accrued, including that damages had been sustained. Further, it argued that the damages claimed by the plaintiffs related to their inability to develop the property as planned and resulted from the amendment to the legislation. The City submitted that the plaintiffs' claim only arose as a result of the amendments which prevented the development of the property; and therefore this situation

falls squarely within the immunity of a cause of action that “arises as a direct or indirect result of the enactment or repeal” of a provision of the *ORMCA*.

[10] We accept that the plaintiffs’ cause of action did not arise until damage had been sustained. However, it is at least arguable that not all of the damages sought by the plaintiffs flow solely from the amendment of the legislation. A cause of action accrues at the point in time when the plaintiff realizes it has sustained harm. It is not necessary that the full extent of the damages be known at that time, nor is it necessary that all of the damages have even been sustained: *Peixeiro v. Haberman* (1997), 151 D.L.R. (4th) 429, 103 O.A.C. 161, 3 S.C.R. 549 at para 18.

[11] Some of the damages claimed by the plaintiffs clearly arose independently of the amendments to the *ORMCA*. The plaintiffs allege malfeasance and breach of public office against the City and claim punitive damages. To establish entitlement to punitive damages for malfeasance, it is not necessary for the plaintiffs to prove that the delay by the City resulted in their inability to develop the property because of the intervening amendments to the legislation. Punitive damages could be awarded independently of any other harm sustained by the plaintiffs, and in theory could even be awarded if the amendment had never been enacted and the subdivision project had gone ahead, or conversely, if it is established that the subdivision could never have gotten off the ground for reasons completely unrelated to the amendment.

[12] Further, the plaintiffs submit that they sustained economic harm due to the 13-month delay caused by the City and incurred out-of-pocket expenses as a result of the City’s wrongdoing prior to the amendment coming into force. While there is no specific evidence filed by the plaintiffs to substantiate this claim, it is apparent from the statement of claim and follows as a matter of logic from the specific financial harm alleged in the affidavit material.

[13] Assuming the plaintiffs otherwise have a cause of action for malfeasance, it is apparent that some degree of damages was sustained by virtue of the City closing the zoning applications and refusing to re-open them for a period of 13 months. Therefore, the plaintiffs’ cause of action accrued prior to the amendments to the legislation. The fact that further, and more extensive, damages may have been sustained by the plaintiffs as a result of the amendments does not mean that they had no cause of action prior to that date, and it therefore cannot be said conclusively that their cause of action arose as a result of the amendment to the legislation.

[14] It should be noted that the City, needless to say, disputes the plaintiffs’ entitlement to such damages, and indeed disputes the allegations of malfeasance and negligence. Obviously, there are facts in dispute that require a trial. It follows that the appeal must be dismissed.

[15] That is sufficient to dispose of the appeal on the substantive grounds. However, it must also be noted that the City did not argue before O’Marra J. that the plaintiffs’ claim arose as a result of the amendment to the legislation and that s. 20(1)(a) was therefore a bar to the action. The decision of O’Marra J. focused entirely on whether s. 20(1)(c) was a bar to the claim and he gave very detailed and careful reasons for his conclusion that there was a genuine issue for trial on that point. He made no mention of subsection 20(1)(a), save to set it out when quoting the

entire section in his reasons. There is a simple explanation for that omission. It was not raised by the City in its written factum on the motion and it was not argued. Therefore, quite understandably, it is not reflected in the reasons of the motion judge.

[16] It is unfortunate that when the City sought leave to appeal based on s. 20(1)(a), its counsel did not draw to the attention of Dambrot J. that this specific point was not argued before O'Marra J. It is likewise unfortunate that counsel for the plaintiffs did not think to argue on the leave motion that this point had never been raised before. He was candid in acknowledging on the appeal that this point did not occur to him until two days before the appeal itself was argued. One of the grounds upon which leave was granted was the failure of the motion judge to deal at all with s. 20(1)(a). Indeed, the City's factum before us is replete with submissions that the motion judge erred by failing to consider the impact of s. 20(1)(a), without ever mentioning that the argument had never been cast in that light before O'Marra J. on the motion.

[17] One of the arguments advanced by the City on the appeal is that the plaintiffs failed to put evidence before the court on the motion to demonstrate that damages had been sustained prior to the amendments to the legislation. We are satisfied that there is a sufficient evidentiary record of damages sustained prior to December 13, 2003 to meet the test under Rule 20. In coming to that conclusion, however, we are mindful of the fact that the plaintiffs could not have fairly appreciated, from the material filed by the moving party, that s. 20(1)(a) would be an issue or that the date upon which damages had first been sustained would be relevant.

[18] Given these circumstances, it would perhaps have been open to this Court to dismiss the appeal on the basis that the issue raised had not previously been argued before the motion judge. However, because that point was never disclosed to the leave judge and was not raised before us by the respondents on the appeal, and because we heard full argument on the merits of the issue, we have decided the substantive issue on the appeal as if it had been properly before us.

[19] The City appeals the costs awarded by O'Marra J. on the basis that costs ought not to have been awarded on a substantial indemnity scale and on the basis that the costs award was so high that it exceeded what could reasonably have been expected by the parties.

[20] In determining that substantial indemnity costs were warranted, O'Marra J. correctly set out and applied the applicable legal principles. He concluded that the defendant's motion for judgment was not brought reasonably because it was plain and obvious that there would be disputed facts that could only be resolved at trial in a case of this nature. That is a determination that was completely open to him on the record before him, and we see no basis to interfere.

[21] The City argued before us that we should take into account the fact that leave to appeal was granted in determining whether it was reasonable for the City to have brought its motion in the first place. That argument fails to recognize that the issue upon which leave was granted was not before the motion judge. On the argument that was before the motion judge, it was completely reasonable to have awarded costs on a substantial indemnity basis.

[22] We are, however, all of the view that the quantum of costs awarded by the motion judge cannot stand. Even on a substantial indemnity basis, in the circumstances of this case, a fee of

\$135,000 for what ultimately was a one-day summary judgment motion is clearly excessive. In our opinion a fee of \$85,000 is adequate and fair to all parties. We therefore deduct \$50,000 from the all-inclusive award of 169,156.30

[23] The plaintiffs have been substantially successful on this appeal and seek costs both on the appeal and the leave application. They claim total costs of approximately \$33,000 on the appeal (of which \$1229.55 is for disbursements) and costs of approximately \$39,500 for the leave application (of which \$1615.95 is for disbursements). In our view, those amounts are excessive given the issues involved and the length of the appeal. We note that the costs outline of the appellant reflects a total of approximately \$35,000 for both the leave application and the appeal. That seems to be more in accordance with what would be in the reasonable expectation of the parties for an appeal of this nature. However, it is appropriate to reduce the total somewhat with respect to the leave application due to the fact that the plaintiffs failed to alert the leave judge to the fact that the issue upon which leave was being sought had not been argued before the motion judge. Taking all of these factors into account, we are of the view that \$25,000 is an adequate and reasonable costs award.

[24] Accordingly, the appeal on the merits is dismissed and the costs award is varied by reducing the amount to \$119,156.30 payable forthwith. Costs of this appeal and the leave application are awarded to the respondents (plaintiffs) fixed at \$25,000, payable forthwith.

JENNNINGS J.

McCOMBS J.

MOLLOY J.

Date: March 15, 2010