

COMMITTEE OF THE WHOLE (WORKING SESSION) - FEBRUARY 27, 2007

BILL 130 AMENDMENTS TO *MUNICIPAL ACT, 2001* – IMPLEMENTATION PLAN

Recommendation

The City Manager and the Commissioner of Legal and Administrative Services & City Solicitor, recommend that:

1. This report be received for information;
2. That the Policy on Corporate Policy Development, in Attachment No. 1 to this report, be adopted by Council;
3. That the City Manager monitor the progress of the implementation plan.

Economic Impact

The economic impacts arising from this report are within the existing budget.

Communications Plan

In order to reflect the current policy emphasis on accountability and transparency at all levels of government, their institutions, policies and operations, the following steps are suggested:

To further emphasize the transparency of the City's policies, all Administrative policies adopted by Council should be available to the public on the City's Website;

A hard copy of any policy should be available to any member of the public upon request;

A communication plan will accompany each new policy or policy revision. An important component of the communication will be to ensure that all Employees and Council (as necessary) are familiar with duties and responsibilities under relevant Corporate Policies as they are revised and adopted, and training and acknowledgment will be documented.

Purpose

The purpose of this report is to highlight recent amendments to the *Municipal Act, 2001*. The report identifies actions to be taken by Vaughan Council to ensure the City is in compliance with the amended legislation, together with actions that require further review and analysis by City staff.

Background – Analysis and Options

Status

The *Municipal Statute Law Amendment Act, 2006* ("Bill 130"), was introduced for 1st Reading on June 15, 2006. The Bill was proclaimed into force on January 1st, 2007, with the exception of a limited number of sections to afford municipalities the time required to enact required by-laws or approve appropriate policies, together with sections that require the Province to develop and finalize additional regulations. Previous reports were provided to Council on April 4, 2006 dealing with the then proposed City of Toronto Act, 2006 ("Bill 53") and subsequently dealing with proposed Bill 130 on September 25, 2006. These reports provided a detailed summary of amendments included in the Bills and made recommendations for additional amendments.

A number of new and amending regulations were filed in late December and published in mid-January 2007. The regulations relate to various matters in the Municipal Act, 2001 that have been amended by Bill 130 or to streamline existing regulations including: the Dissolution of Local Boards, Restructuring Proposals, Licensing, Fees and Charges, Local Improvement Charges, Municipal Service Corporations, Tax Sales, Area Rating, Debt-related Financial Instruments and Financial Agreements (Lease Financing), Bank Loans, Eligible Investments and Related Financial Agreements, and Minimum Standards for Municipal Highways (amending the section 1 Table classifying Municipal Roads).

Bill 130 Highlights

A number of the Bill 130 amendments establish a more flexible legislative framework and give municipalities much of the broader authority and tools they have requested for many years. For the City of Vaughan, there are no mandatory compliance issues. This authority and these tools are required by municipalities to make decisions and deliver services in accordance with public expectations in individual local communities and the financial realities that have developed over time. These changes include:

Broader general powers and less prescriptive specific powers

- The general powers of municipalities in sections 8, 9, 10 and 11 of Part II – General Powers have been expanded to give municipalities underlying broad powers with authority “to provide any service or thing that the municipality considers necessary or desirable for the public,” subject to the Section 11 division of powers and conflict provisions. In addition, the general by-law authority in the areas set out in subsections 10(2) and 11(2) have been redefined and broadened. These broad powers, taken together, are then reinforced by reference to the broad powers throughout the Act, including those Parts providing special authority for certain matters, such as highways, parking, licensing, waste collection, natural environment, fees and charges, and so forth. As a result, with the exception of taxing powers, financial powers, offences and penalties or enforcement powers, and other strictly regulated powers, the broad powers will now be interpreted as underlying powers which may be relied upon by a municipality where a matter has not been referenced in another Part.

Rules for Delegation of Authority

- Reinstatement, streamlining and clarification of delegation authority, providing municipal councils with specific authority to delegate responsibilities to staff, committees and others.

Streamlined Parking and other Specific Powers, and broader Parking Penalties

- Streamlining and more flexibility added related to matters such as highways, parking, culture and parks, fences, signs, animals, economic development, nuisance, natural environment, retail business closing hours, and so forth, and, most importantly, the power to impose administrative monetary penalties for parking infractions (conditional upon Regulation by Ministry of Attorney General). For example, an administrative penalty, such as a monetary penalty, could be provided by by-law, without the delay involved in laying charges, attending provincial court with City witnesses and risking the trial delay due to witness’s inability to attend, ongoing Justices of the Peace shortages, or an unsuccessful outcome at trial.

Streamlined Licensing Powers and broader Licensing Penalties

- Streamlining and more flexibility added to the Part IV – Licenses, as well as the important authority to impose administrative penalties for non-compliance with licensing requirements.

More flexible Powers related to Municipal Service Boards and Local Boards

- More flexibility for municipal councils to establish or modify municipal service boards and local boards.

Corporations

- Greater flexibility for municipalities to establish corporations for delivery of municipal services, conditional upon the Regulations.

Meetings

- Addition of a specific exception to the meeting rules, authorizing council or committees to hold closed meetings for training and educational sessions.

New Accountability and Transparency Provisions

- As a corollary to the expanded powers provided in Bill 130 for municipalities, with less prescriptive rules and oversight, additional roles of council are identified in clauses 224(d) and (d.1):
 - “to ensure that administrative *policies (new)*, practices and procedures are in place to implement the decisions of council;” and
 - “to ensure the accountability and transparency of the operations of the municipality, including the activities of the senior management of the municipality.”
- Discretionary authority has been added so that municipalities can adopt additional protections related to accountability and transparency of municipal decision-making processes, operations and procedures, appearing in a new *Part V.1 – Accountability and Transparency*, with others added as amendments to existing Parts of the Act. In the new Part V.1, if appropriate, there is now authority for the appointment of the following:
 - ***Integrity Commissioner*** (full-time or part-time, not required to be a municipal employee), whose functions will include overseeing compliance with any code of ethics and conduct for Members of Council, investigating complaints regarding alleged breaches of the Code by a member, or other restrictions on a member’s actions, conducting inquiries, and reports to Council and, where appropriate, referring findings to other appropriate authorities, and providing advice to Members of Council regarding potential conduct, accountability and other issues or concerns. At the Committee of the Whole meeting of February 19, Committee directed a report be brought to the April 16 Committee of the Whole;
 - ***Lobbyist Registrar and Registry***, where a Lobbyist Registry is put into effect, compliance issues related to registration or alleged breach of a code of conduct, may require investigation.
 - ***Ombudsman*** (full-time or part-time, not required to be a municipal employee), whose functions will include investigating decisions, recommendations, and any acts or omitted acts in the administration of the municipality, boards or specified municipal corporations, and will possess the Provincial Ombudsman’s section 19 powers (*Ombudsman’s Act*) relating to inquiries, and to make reports to Council including conclusions and recommendations;

- **Auditor General** (full-time or part-time, not required to be a municipal employee), whose functions will include assisting council in holding itself and its administrators accountable for the quality of stewardship over public funds, and other duties as assigned by Council.
- **Investigator Closed Meetings** Under S.239.2 (not yet proclaimed) a complaint that a meeting was improperly closed may be investigated. The delay in proclamation allows municipalities to appoint an Investigator for such purpose. Staff will be bringing a separate report to a future Council meeting regarding options and recommendations on appointment of such an Investigator.

Role of Members of Council and Head of Council

- The roles of the Mayor and Members of Council include a specific duty "to ensure that policies," in addition to practices and procedures as in the past, "are in place to implement the decisions of council and to ensure the accountability and transparency of the municipality, including the activities of the senior management" (clauses 224(d) and (d.1)). The provision permitting the appointment of a chief administrative officer has been retained. The role of the head of council includes as well, to "provide information and recommendations to council with respect to the role of council described in clauses 224(d) and (d.1)."

Public Notice of Meetings

- Removal of prescriptive notice requirements in different parts of the Act, in favour of a requirement to adopt policies on notice to the public, such as advertising, consistent notice periods, and requiring notice provisions be contained in the Procedural By-law.

New Mandatory Administrative Policies

- Removal of detailed sections regarding disposition of land, hiring of employees and procurement of goods and services, in favour of a mandatory requirement that Councils and local boards adopt policies on each of these matters, and that Councils adopt policies on the delegation of its powers and duties, as well as on how Council will ensure its accountability to the public for its actions and how it will ensure its actions are transparent to the public (subsections 270(1) and (2)).

Expanded Enforcement Powers

- Harmonization and enhancement of municipal enforcement powers, including increased maximum fines and penalties and a range of other enforcement powers for continuing offences, related to corporate entities - including increased fines, powers of entry for inspection, and numerous other clarifications.

Provincial Regulation Authority

- The Province continues to have the broad authority to make regulations under Bill 130.
- A regulation provision in the Act that now permits the Province to suspend any municipal by-law by regulation for a period of 18 months does not reflect the principle that municipalities are an accountable and responsible level of government and, again, may have negative impacts on municipalities since it increases the uncertainty for municipalities and businesses, industry or other organizations dealing with them.

Next Steps: Plan of Action: Implementation

(1) *Delegation Policy and Areas of Potential Delegation:*

With the introduction of general delegation powers in sections 23.1 to 23.5 and the mandatory requirement in subsection 270(1) 6 that Council adopt a policy on the delegation of its powers and duties (not yet proclaimed), staff will carry out a review of areas that might benefit from delegation and report to a future Council meeting.

(2) *Parking Administrative Penalty System:*

Once a regulation is filed by the Province authorizing administrative penalties for parking infractions under section 102.1, staff will report to Council setting out options for a system of administrative penalties, cost-benefit analysis, required amendments to the Parking By-law and all other matters.

(3) *Licensing By-law and Penalties:*

Staff will bring a report to a future Council meeting outlining options for a system of administrative penalties, cost-benefit analysis, required amendments to the Licensing By-law, 2006 and all other matters. The Act now allows traditional licensing rules to apply to a broad range of municipally regulated activities such as sign permits, road cut permits, and any other 'permissions' established by the City. As well, indirect costs may now be included in determining fees. The 5-year sunset provision on Licensing By-laws, requiring re-enactment, has been eliminated.

(4) *Integrity Commissioner/Ombudsman/Auditor General:*

As previously directed by Council at Committee of the Whole on February 19, staff will be bringing a report on the appointment of an Integrity Commissioner to the April 17 Committee of the Whole meeting.

(5) *Code of Conduct for Members of Council:*

To be reviewed in conjunction with report on Integrity Commissioner April 19.

(6) *Code of Conduct for Municipal Employees:*

Staff will be reviewing the existing policy and will report to a future Council meeting.

Members of Council have been provided with two Comparison Tables delivered under separate cover, providing examples of current and recently up-dated Codes of Conduct for Members of Council and Codes of Conduct, or a Conflict of Interest Policy for Municipal Employees.

(7) *Review of Policies required by Section 270 Amendments:*

These will be reviewed by staff and any necessary revisions will be brought to a future Council meeting.

(8) *Review of Procedure By-law required by Subsection 238(1) and (2.1) Amendments :*

The By-law will be reviewed for compliance and necessary revisions, and brought to a future Council meeting.

(9) **Review of Relevant Corporate Policies:**

The review of the City's Corporate Policies, commenced in spring 2006, will include the recommended adoption of new policies, as necessary, to support the objectives of transparency and accountability.

The review process falls into 3 categories:

- (i) Policies to be deleted consisting of redundant policies in different sections, policies that have been superseded by statute or a by-law, etc.;
- (ii) New policies to be developed for approval by Council – these policies would include a Policy on Corporate Policy Development, a Policy on Staff Responses to Inquiries by the Public, amendments as required to ethics and conduct policies, hiring and other policies and required new policies or amendments to existing policies due to the Bill 130 amendments;
- (iii) Revisions to existing policies as required.

Relationship to Vaughan Vision 2007

This report is consistent with the Vaughan Vision 2007.

Regional Implications

This report does not have regional implications.

Conclusion

This report provides an outline of the required review of existing by-laws and policies in light of the Bill 130 amendments to the *Municipal Act, 2001* and staff are proceeding with the various actions highlighted in this report to implement the necessary amendments and changes for compliance with the Act.

Attachments

1. Proposed Policy on *Corporate Policy Development*

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**CITY OF VAUGHAN
POLICY MANUAL**

SECTION: ADMINISTRATION	POLICY NO. 03.____
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DEPARTMENT: ADMINISTRATIVE	SUBJECT: CORPORATE POLICY DEVELOPMENT
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PURPOSE

To ensure consistency in corporate policies, a process for corporate policy development and revision of corporate policies is required.

POLICY

This Policy relates to the development of all corporate policies.

Policy Approval:

1. Council will approve all corporate policies or revisions to corporate policies.

Process for Corporate Policy Approval:

- where necessary, due to the scope or importance of the development of a policy or policy revision, a staff working team will be established
- consultation with all affected Departments
- review by financial Services Department
- review by Legal Services Department
- review/comment by Senior Management Team
- approval by City Manager to proceed to Council
- report to Committee of the Whole and Council approval

Policy Template:

All corporate policies should follow the standard policy template. Copies of Corporate Reports will not be attached to the Policy or included in the Policy Manual, since this practice could give rise to confusion and interpretation problems. The reports are explanatory in nature, although they may be referenced by date and item number on the policy template.

Access to Corporate Policies:

The Clerk's Department is responsible for ensuring that employees, and elected and appointed representatives, have access to current and accurate policies and procedures, through regular consolidation of up-dates to the City of Vaughan Policy Manual, either electronically or through delivery of a hard copy of new or updated policies, or notices of deletion of policies, to the relevant Departments for insertion in all Policy Manuals in the possession of each Member of Council, the City Manager, all Commissioners, Directors and the Departments.

Communicating Policy:

All approved Corporate Policies, including any new policies, revised policies or policy deletions, will be posted on the City's web-site. This is in keeping with the Accountability and Transparency directions contained in the *Municipal Act, 2001*, as amended by Bill 130, the *Municipal Statute Law Amendment Act, 2006*, S.O. 2006, c. 32, Schedule A.

Policy Manual Administration

The Clerk is responsible for administering, coordinating and maintaining the City of Vaughan Policy Manual, including monitoring new or amended corporate-wide policies and procedures approved by the City Manager or Council, updating the Policy Manual, distributing hard copies of updates and electronically updating the Policy Manual, liaising with Corporate Communications in inputting required policies in the City of Vaughan Policy Manual on the Vibe and the City's web-site.

CONTACT:

Clerk, City Clerk's Office
Deputy Clerk, City Clerk's Office

Policy: Corporate Policy Development-02-2007-jap.cps.doc