

**CITY OF VAUGHAN**

**REPORT NO. 24 OF THE**

**COMMITTEE OF THE WHOLE**  
**(CLOSED SESSION)**

*For consideration by the Council  
of the City of Vaughan  
on May 5, 2009*

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The Committee of the Whole (Closed Session) met at 5:50 p.m., on April 20, 2009.

Present:                   Regional Councillor Joyce Frustaglio, Chair  
                              Mayor Linda D. Jackson  
                              Regional Councillor Gino Rosati  
                              Councillor Tony Carella  
                              Councillor Bernie Di Vona  
                              Councillor Peter Meffe  
                              Councillor Sandra Yeung Racco

The following items were dealt with:

**1                                 SAFE CITY COMMITTEE**  
**RESIGNATION AND REDUCTION IN QUORUM**

The Committee of the Whole (Closed Session) recommends that the confidential recommendation of the Committee of the Whole (Closed Session) be approved.

**2                                 COMMENCEMENT OF EXPROPRIATION**  
**SOUTH SIDE OF PEELAR ROAD, WARD 4**  
**PART 3 AND PART 4, PLAN 65R-31411**

The Committee of the Whole (Closed Session) recommends:

- 1) That this report and the recommendations of the Committee of the Whole (Closed Session) be made public at this time;
- 2) That staff be directed to commence expropriation proceedings for the acquisition of two parcels of land in the form of a permanent and temporary easement, situated on the south side of Peelar Road and legally described as Part 3, (the permanent easement) and Part 4 (the temporary easement) on Plan 65R-31411 in order to replace the existing culvert on Peelar Road;
- 3) That a By-law be enacted to authorize the Mayor and Clerk to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate for

lands situated in the City of Vaughan, in the Regional Municipality of York described as Part 3 and Part 4 on Plan 65R-31411; and

- 4) **That the confidential report of the Director of Legal Services and the Senior Manager of Real Estate, dated April 20, 2009, be received.**

**Recommendation**

The Director of Legal Services and the Senior Manager of Real Estate in consultation with the Commissioner of Engineering and Public Works and the Commissioner of Legal and Administrative Services recommends:

- 1) That staff be directed to commence expropriation proceedings for the acquisition of two parcels of land in the form of a permanent and temporary easement, situated on the south side of Peelar Road and legally described as Part 3, (the permanent easement) and Part 4 (the temporary easement) on Plan 65R-31411 in order to replace the existing culvert on Peelar Road.
- 2) That a By-law be enacted to authorize the Mayor and Clerk to execute the Application for Approval to Expropriate Land and the Notice of Application for Approval to Expropriate for lands situated in the City of Vaughan, in the Regional Municipality of York described as Part 3 and Part 4 on Plan 65R-31411.

**Economic Impact**

The estimated purchase price offered to the property owner was \$3,000.00 plus limited legal fees and disbursements. The project is captured under Approved 2008 Capital Project #EN-1728-08 and there is adequate funding to cover any additional costs under the approved project account.

**Communications Plan**

Not Applicable

**Purpose**

The purpose of this report is to request authorization for expropriation.

**Background - Analysis and Options**

As per the approved 2008 capital project #EN-1728-08, the City is proposing to replace and enlarge an existing steel corrugated culvert under Peelar Road with a larger concrete box culvert. The existing culvert is deteriorating and not providing the capacity to handle the flow of water from Black Creek efficiently.

Temporary and permanent easements are being acquired on both the north and south sides of Peelar Road with construction scheduled to commence during the first week of July 2009.

The property owned by Antonio and Egidia DiBenedetto is legally described as Lot 14, Plan 8070. It has a site area of 1.18 acres with a frontage of 256.75 feet and a depth of 200.00 feet and is located on the south side of Peelar Road, adjacent to and west of Black Creek as shown on Attachment #1. The City requirements are legally described as Part 3, the Permanent Easement, and Part 4, the Temporary Easement, on Plan 65R-31411 as shown on Attachment #2. The Permanent Easement area contains approximately 246.2 square metres (0.061 acres) and the Temporary Easement area contains approximately 594.1 square metres (0.147 acres).

The permanent and temporary easement rights are required for the construction, operation, maintenance, inspection, alteration, removal, replacement, reconstruction, enlarging and repairing a

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concrete box culvert on and over a portion of the registered owners' lands. The temporary easement rights are required for the period of one (1) year commencing on July 1, 2009 and terminating on June 30, 2010.

The permanent and temporary easements are located entirely within the banks of Black Creek and are considered Open Space Lands. The proposed work and presence of the easement encumbrance will not affect any of the developable lands or potential future use of property.

The market value of such lands normally falls within a range of \$3,000 to \$6,000 per acre. Compensation for permanent easements is traditionally based on 50% of market value and compensation for temporary easements is normally calculated on the basis of 10% of market value per annum.

The normal practice in determining compensation for easement areas that are extremely small is usually based on an administrative sum of up to \$2,000.00. This eliminates the need for appraisal reports where costs usually exceed the appropriate compensation.

Initially, the owners were offered the sum of \$1,500.00 for both the permanent and temporary easement rights which they rejected claiming it was too low. In order to reach an agreement without incurring further costs, the offer was increased to \$3,000.00 and again rejected by the owners.

Continued attempts to negotiate a fair settlement have been unsuccessful. Engineering and real estate staff have met with Mr. DiBenedetto on numerous occasions. Engineering staff have responded to all his concerns related to the construction. Mr. DiBenedetto only wanted to provide the City with a temporary easement and this matter was discussed and the reasons for the permanent easement requirement were explained in detail. Staff have provided every opportunity for him to review the revised construction plans and the City's offer. Mr. DiBenedetto has consistently delayed signing the offer and during our last discussion was advised that if staff received no response by a specified date, there would be no alternative but to proceed with expropriation.

In order to ensure that scheduled construction dates are met, expropriation of the permanent and temporary easement rights are required.

**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**

Not Applicable

**Conclusion**

Due to Mr. DiBenedetto's refusal to negotiate a settlement with the City and the urgent need for the City to replace the existing culvert which project has a strict timeline, staff recommend commencing expropriation proceedings. If possible, staff can negotiate a settlement at any time during this process. Mr. DiBenedetto is aware that staff are recommending an expropriation in order to complete this needed project.

**Attachments**

Attachment #1 – Location Map  
Attachment #2 – Easement Areas

**REPORT NO. 24 OF THE COMMITTEE OF THE WHOLE (CLOSED SESSION)  
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**Report prepared by:**

Liana Haughton

**3**

**PROPERTY MATTER  
HYDRO ONE NETWORKS INC/ORC, WARD 2  
SOUTH EAST CORNER HIGHWAY 27 AND MILANI BLVD**

**The Committee of the Whole (Closed Session) recommends that the confidential recommendation of the Committee of the Whole (Closed Session) be approved.**

**4**

**PROPERTY MATTER  
PROPOSED LICENSE RENEWAL AGREEMENT – LUCA TESA, WARD 2  
LANDS BETWEEN KIPLING AVENUE AND ISLINGTON AVENUE  
PART OF LOTS 3 AND 4, CONCESSION 7**

**The Committee of the Whole (Closed Session) recommends that the confidential recommendation of the Committee of the Whole (Closed Session) be approved.**

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The meeting adjourned at 5:55 p.m.

Respectfully submitted,

Regional Councillor Joyce Frustaglio, Chair