

CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL, CITY OF VAUGHAN

Recommendation

The Integrity Commissioner recommends:

1. THAT Council adopt the Code of Ethical Conduct for Members of Council, City of Vaughan (Attachment 1);
2. THAT Council receive Attachment 2 which is a summary of the comments received from the public on the Code of Ethical Conduct for Members of Council, City of Vaughan; and
3. THAT all Members of Council attend a Code of Ethical Conduct Workshop on October 5, 2009 in lieu of the Committee of the Whole (Working Session) meeting scheduled for that day.

Economic Impact

The adoption of the recommendations in this Report will have no economic impact.

Purpose

To report to City Council on the recommended Code of Ethical Conduct for Members of Council City of Vaughan and to provide findings on the public comments that were received.

Background - Analysis and Options

The purpose of this memo is to circulate the recommended final draft of the Code of Ethical Conduct for Members of Council (the "Code") to the Mayor and Members of Council for adoption.

At its meeting on June 30, 2009, City Council adopted, as amended, Item 55, Report No. 35, of the Committee of the Whole, which stated in part:

That the final decision on this matter be deferred to the Council meeting of September 21, 2009, to provide further opportunity for public input;

Over the summer, members of the public have provided the Office of the Integrity Commissioner with comments on the Code. Members of the public chose to communicate their comments in various ways. Although I expected to receive more comments, I am very grateful to those who came forward and shared their thoughts, asked questions and discussed issues of importance in relations to the Code. Where appropriate, comments received by the public have been incorporated into the Code submitted today.

Important to the effective adherence to and compliance with the Code of Ethical Conduct, is the understanding by Members of Council of the practical meaning and day-to-day application of rules. It is for this reason that I have recommended that a Code of Ethical Conduct Workshop be held on October 5, 2009 with all Members of Council in attendance.

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

This report has no Regional implications

Conclusion

THAT Council adopt the Code of Ethical Conduct for Members of Council City of Vaughan be adopted.

THAT Council receive the comments from the public.

THAT all Members of Council attend the October 5, 2009 Code of Ethical Conduct Workshop.

Attachments

1. Code of Ethical Conduct for Members of Council City of Vaughan
2. Code of Ethical Conduct Summary of Public Comments

Report prepared by:

Respectfully submitted,

Suzanne Craig
Integrity Commissioner

**CODE OF ETHICAL CONDUCT FOR MEMBERS OF COUNCIL
CITY OF VAUGHAN
TABLE OF CONTENTS**

Introduction	2
Preamble	2
Framework and Interpretation	3
Definitions	3
Rules:	
1 Key Principles	5
2 Gifts and Benefits	8
3 Confidential Information	13
4 Use of City Property, Services and Other Resources	15
5 Election Campaign Work	16
6 Business Relations	17
7 Improper Use of Influence	18
8 Conduct at Council	19
9 Transparency & Openness in Decision-Making and Member's Duties	20
10 Media Communications	21
11 Representing The City	22
12 Conduct Respecting Current and Prospective Employment	23
13 Encouragement of Respect For The City and Its By-Laws	24
14 Harassment	25
15 Discreditable Conduct	26
16 Conduct Respecting Staff	27
17 Employment of Council Relatives/Family Members	28
18 Failure To Adhere To Council Policies and Procedures	29
19 Reprisals and Obstruction	30
20 Compliance With The Code of Ethical Conduct	31
21 Implementation	32

Introduction

Democracy is an active process – one that requires ongoing engagement between citizens and their elected officials. Ethics and integrity are at the core of public confidence in government and in the political process.

There has been a general trend at the municipal level of government in Ontario, to develop rules around ethical conduct for elected officials so that they may carry out their duties with impartiality and equality of service to all, recognizing that as leaders of the community, they are held to a higher standard of behavior and conduct.

It is the purpose of this *Code of Ethical Conduct* to establish rules that guide Members of Council in performing their diverse roles in representing their constituents and recognize Members' accountability for managing City resources allocated to them.

Preamble

Whereas the City of Vaughan first instituted a Code of Conduct for Members of Council in 1996;

And Whereas elected officials of the City of Vaughan have and recognize their obligation to not only obey the law, but to go beyond the minimum standards of behaviour and act in a manner that is of the highest ethical ideals so that their conduct will bear the closest public scrutiny;

And whereas the private interest of elected officials of the City of Vaughan must not provide the potential for, or the appearance of, an opportunity for benefit, wrongdoing, or unethical conduct;

And Whereas this Code of Ethical Conduct stems from the principles of the pre-existing Code of Conduct that has been in place since 1996 based on the belief by the Council of the City of Vaughan that not just employees but also elected officials should have a document against which to measure their conducts that they may be held to account;

The Council of the City of Vaughan will adopt certain rules that further underscore a Councillor's belief in his/her responsibility as a public trustee;

Commentary

The operation of democratic municipal government requires that elected officials be independent, impartial and duly responsible to the people. To this end, it is imperative that:

- The City of Vaughan decisions and policy be made through the proper processes of municipal government structure.
- Public office not be used for personal gain.
- The public have confidence in the integrity of its municipal government.

A written Code of Ethical Conduct protects the public interest and helps to ensure that the Members of Council share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members must operate.

The public is entitled to expect the highest standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and enhance the City of Vaughan's reputation and integrity.

Framework and Interpretation

1. This *Code of Ethical Conduct* applies to the Mayor and all Members of Council. It is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. Commentary and examples used in this *Code of Ethical Conduct* are meant to be illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document by the Integrity Commissioner, as she or he deems appropriate.
2. As long as all the facts known to the member are disclosed to the Integrity Commissioner and there is no change to these facts, then the member may rely on any written advice provided by the Integrity Commissioner.
3. Members of Council, Members of the public or City staff seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.

Commentary

This *Code of Ethical Conduct* does not prohibit the activities in which Members of Council normally engage on behalf of constituents in accordance with applicable laws.

The Municipal Act is the primary source of regulation for municipalities and provides the basis for good governance within municipal government. There are other important documents that regulate the behavior and conduct of Members. Clear and consistent written rules provide elected officials with confirmation that their actions adhere to the highest ideals of integrity during their term of office. This *Code of Ethical Conduct* operates together with and as a supplement to the following existing statutes, documents and policies governing the conduct of Members.

Legislation:

- The Municipal Act, 2001. S.O. Chapter 25 and amendments;
- The Municipal Conflict of Interest Act;
- The Municipal Elections Act, 1996; and
- The Municipal Freedom of Information and Protection of Privacy Act.
- The Criminal Code of Canada also governs the conduct of Members of Council.

Definitions:

In the *Code of Ethical Conduct*:

1. the terms "child", "parent" and "spouse" have the same meanings as in the *Municipal Conflict of Interest Act*.
2. "child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

3. "member" means a member of Vaughan City Council;
4. "parent" means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
5. "spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
6. "family member" means
 - spouse, common-law partner, or any person with whom the person is living as a spouse outside of marriage
 - parent, including step-parent and legal guardian
 - child, including step-child and grandchild
 - siblings and children of siblings
 - aunt/uncle, niece/nephew, first cousins
 - in-laws, including mother/father, sister/brother, daughter/son
 - any person who lives with the Member on a permanent basis
7. "staff" includes Commissioners, Directors, Managers, Supervisors, Clerical and Technical Unionized employees, Hourly Unionized staff, Part-time Unionized staff, Temporary/Seasonal staff, Contract staff, students and Volunteers.

Implementation:

This Code shall replace Policy Number 01.06 CNL: 96.03.25 and shall come into force on the 2nd day of November 2009

Rule No. 1

Key Principles: The key principles that underline the rules in this *Code of Ethical Conduct* are as follows:

- a) **Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

Commentary

This underscores that Members' carry out their official City activities in a way that will foster and enhance respect for government and above all, demonstrate respect for members of the public.

- b) **Members of Council should be committed to performing their functions with integrity and transparency.**

Commentary

As public officials, Members of Council recognize the public's right to reasonable access to information in relation to how decisions are made. This right of access includes the right of the public to receive complete and understandable information which must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

- c) **Members of Council shall avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real. Members of Council shall not extend, in their discharge of their official duties, preferential treatment to family members, organizations or groups in which they or their family member have a pecuniary interest.**

Commentary

As a result, Members of Council will have a common understanding that they will not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual;

Members of Council recognize that their actions are governed by the *Municipal Conflict of Interest Act* (MCI), and that, by virtue of the provisions of that statute, the Integrity Commissioner of the City of Vaughan has no authority to receive or investigate complaints regarding alleged contraventions under the MCI.

- d) **Members of Council shall avoid any interest in any contract made by him/her in his/her official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.**

- e) **Members of Council shall not engage in the management of a business carried on by a corporation nor profit directly or indirectly from a business, including but not limited to a corporation, that does business or has contracted with the City of Vaughan, or hold an office or directorship, unless holding the office or directorship is in a social club, religious organization, other charitable organization or corporations with shares directly or indirectly held by the municipality.**
- f) **Approved exceptions**
A Member of Council may engage in an activity prohibited by clause 1(e) if the following conditions are met:
- 1. The Member has disclosed all material facts to the Integrity Commissioner.**
 - 2. The Integrity Commissioner is satisfied that the activity, as carried on in the specified manner, did not create a conflict between the Member's private interest and public duty.**
 - 3. The Integrity Commissioner has given the Member his or her approval and has specified the manner in which the Member of Council may remedy the situation.**
 - 4. The Member remedies the situation in the manner specified by the Integrity Commissioner**

Commentary

Members of Council must adhere to the City's purchasing policies and pay careful attention to the Councillors' expense policies. Examples of exceptions include, hospital boards and other not-for-profit organizations and charities.

- g) **Members of Council shall perform official duties and arrange their public affairs in a manner that promotes public confidence and respect and will bear close public scrutiny; and**

Commentary

Members of Council shall not participate in activities that grant, or appear to grant, any special consideration, treatment, or advantage to an individual which is not available to every other individual member of the public.

- h) **Members of Council shall seek to serve the public interest by upholding both the letter and the spirit of the laws and policies established by the Federal Parliament, Ontario Legislature, and the City Council.**

Commentary

A number of the provisions of this *Code* incorporate policies, procedures and provisions adopted by Council and contained in various statutes. The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour.

- i) Members of Council shall fulfill their roles as set out in the Municipal Act and respect the role of staff in the administration of the business affairs of the City.**

Commentary

Members of Council recognize that the decision-making authority for the municipality lies with Council, not an individual Councillor and that it is the role of the officers and employees of the municipality to implement council's decisions and establish administrative practices and procedures to carry out council's decisions. Members of Council recognize and respect the role of City staff and affirm that only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information, on a need to know basis, in order to fulfill its decision-making duties and oversight responsibilities [...]. Individual Members also recognize that the information that they receive as members of the decision-making body of Council is subject to the confidentiality and disclosure rules of Provincial and Federal statutes and City of Vaughan bylaws. (See Rule No. 3 on Confidential Information and Rule No. 16 on Conduct Respecting Staff).

Rule No. 2

Gifts and Benefits:

1. No member shall accept a fee, advance, gift, loan, or personal benefit that is connected directly or indirectly with the performance of his or her duties of Office, except as specifically contemplated.

For these purposes, a fee or advance paid to or a gift or benefit provided with the member's knowledge to a member's spouse, child, or parent, or to a member's staff that is connected directly or indirectly to the performance of the member's duties is deemed to be a gift to that member. The following are recognized as exceptions:

- (a) compensation authorized by law;
- (b) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) a political contribution otherwise reported by law;
- (d) services provided without compensation by persons volunteering their time to a Member;
- (e) a suitable memento of a function honoring the Member (i.e. a trinket or favour of relatively little monetary value such as pen, notepad, t-shirts);
- (f) food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
(for greater certainty of item f, where Council has authorized or endorsed an initiative or event, this would be considered an official event.)
- (g) food and beverages consumed at banquets, receptions or similar events, for charitable, not for profit and community purposes, if:
 1. attendance serves a legitimate public duty purpose; and
 2. the value is reasonable and the invitations infrequent; and
- (h) business meals;
- (i) communication to the offices of a Member, including subscriptions to newspapers and periodicals related to the duties of Office.
- (j) Sponsorships and donations for community events or initiatives organized or run by a member or a third party on behalf of a Member where Council has authorized or endorsed the event or initiative.
(for greater certainty of item j, for Member-organized community events or initiatives, Members should be transparent in their dealings with the public and should not handle any funds on behalf of any organizations and should remain at arms length from the financial aspects of these events and initiatives.)

Rule #2 Part 1(j) does not affect the entitlement of a Member of Council to:

- i. *Use her or his office expense budget to run or support community events subject to the terms of the Councillor Expense Policy;*
- ii. *Urge constituents, businesses and other groups to support community events put on by others in the Member's Ward or elsewhere in the City;*
- iii. *Play an advisory or membership role in any organization that holds community events in the Member's Ward; and*
- iv. *Collaborate with the City of Vaughan and its agencies to hold community events.*

Members are strongly encouraged to list all gifts and benefits they receive.

However, in the case of categories (b), (e), (f), (g) (h), and (i) where the value of the gift or benefit exceeds \$500, or if the total value received from any one source during the course of a calendar year exceeds \$500, the member shall within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor information statement, the form of which will be prescribed by the Integrity Commissioner.

The Integrity Commissioner shall, without notice, examine from time to time the Councillor information statement to ascertain whether the receipt of a gift or benefit might, in her or his opinion, create a conflict between a private interest and the public duty of the Member.

In the event that the Integrity Commissioner makes the preliminary determination, he or she shall call upon the Member to justify receipt of the gift or benefit. Should the Integrity Commissioner determine that receipt was inappropriate, he or she may direct the member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or forfeit the gift or remit the value of any gift or benefit already consumed to the City or City agency, board or commission.

Each Member shall file a copy of their Councillor information statement with the office of the City Clerk on a quarterly basis (the first quarter being April 30th of the calendar year) and the statements shall be a matter of public record.

Commentary:

Gifts and benefits are often received by Members in the course of their duties, and attendance at public functions is expected and considered part of their role. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits, where the total value may be perceived as potentially influencing decision making.

Personal integrity and sound business practices require that relationships with vendors, contractors, or others doing business with the City, be such that no Member of Council is perceived as showing favoritism or bias toward the vendor, contractor or other. Each Member of Council is accountable to the public and should keep a list of all gifts received from individuals, firms or associations (with estimated values) in their constituency offices for review by Integrity Commissioner, as he/she deems appropriate. However, those gifts or benefits that exceed \$500 or the annual limit of \$500 for one source, shall be kept on a form prescribed by the Integrity Commissioner and filed with the office of the City Clerk on a quarterly basis.

Gifts that are subject to listing on the Member of Council information statement can be many types of things, and may include:

- property (i.e. a book, flowers, a gift basket, a painting or sculpture, furniture, wine);
- use of property or facilities (i.e. a vehicle, an office, a cottage) at a reduced rate or at no cost;
- membership in a club or other organization (i.e. a golf club) at a reduced rate or at no cost;
- an invitation to and/or tickets to attend an event (i.e. an athletic commercial event, concert, a play) at a reduced rate or at no cost;
- an invitation to attend a gala or fund-raising event at a reduced rate or at no cost.

An invitation to attend a function where the invitation is connected directly or indirectly with the performance of the Member's duties of Office (i.e. for which the public office holder has a ceremonial, presentational or representational official role) is not considered to be a gift. Attendance is considered to be the fulfillment of an official function or duty.

There are a range of expenses that support a Councillors' role in community development and engagement activities in their ward.

For MPPs, these expenses are generally paid for by caucus funds. This is not the case for municipal Members of Council. The section of the Councillor Expense Policy that deals with Community Expense-Events will indicate allowable expenses for reimbursement and provide for Members of Council to include certain community expenses related to a Member's role in community development as allowable expenditures from their office expense budget. However, gaming tickets during charitable functions, such as raffle tickets, table prize tickets, etc. should not be eligible for reimbursement

- 2. Expenses incurred by Members of Council working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that:**
 - a. Are incurred for an official duty or function;**
 - b. Are modest, representing a prudent use of public funds;**
 - c. Do not involve alcoholic beverages**

In general, working meals are to be provided in-house.

Commentary

Rule #2 must be considered with and balanced against the principle contained expense policies in all Ontario municipalities, which is that Members are entitled to be reimbursed for expenses that are legitimately and appropriately incurred for an official duty or function and which are reasonable and prudent expenses and use of public funds in the circumstances. In making a determination of what constitutes a modest and prudent use of public funds, Members should consider the dollar amounts set in the City of Vaughan Policy Manual I Section: Administration Policy No.: 03.031, as amended.

Given the heavy demands on Members' schedules in the performance of their duties and functions, there are legitimate circumstances that require business meetings over a meal period and result in the Member working through his or her normal meal periods.

"Official duties" or "functions" has the following meaning:

For Members of Council, it includes those activities that are reasonably related to a Member's office, taking into consideration the different interest, the diverse profiles of their wards and their different roles on Committees, agencies, boards and commissions.

For persons employed in the office of Members, it includes those activities and responsibilities that flow from acting on direction from or taking action on behalf of a member.

As representatives of the municipal government, Members will be expected or required to extend hospitality to external parties as part of their official duties and functions. This Code recognizes that through adherence to the current and proposed rules of the City's Councillor Expense Policy, it is legitimate for Members to incur hospitality expenses for meetings, examples of which include:

- a. Engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
- b. Providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Vaughan or the workings of its municipal government;
- c. Honouring persons from Vaughan in recognition of exceptional public service.

This Code recognizes that the current and proposed City of Vaughan Councillor Expense Policy, holds legitimate that Members of Council will be reimbursed or have their office budgets charged for expenses that are incurred while extending hospitality to an external party, including hospitality that takes place in the course of travelling on a duty or function or a Member of Council provided the expenses are reasonable and appropriate in the circumstances.

Reasonable and appropriate expenses are expenses that strike a balance between economy (the expenses represent a prudent use of public funds) and proportionality (the expenses represent what is customary for such functions).

Wherever possible, Members of Council should utilize City-owned facilities and resources that are appropriate to the function.

- 3. This Code recognizes that as community leaders, Members of Council may lend their support to and encourage, community donations to registered charitable and Not for profit groups. Monies raised through fundraising efforts shall go directly to the groups or volunteers and chapters acting as local organizers of the group. This Code recognizes the important work of Members of Council in supporting charitable causes and the need for transparency in Members' involvement.**

This Code sets the following guiding principles for Members of Council:

- (a) Members of Council should not directly or indirectly manage or control any monies received relating to charitable organization's fundraising.**

- (b) A Member of Council or a third party acting on behalf of the Member shall neither solicit nor accept support in any form from an individual, group or corporation with any pending planning, conversion, or demolition variance application before Vaughan City Council.**

- (c) With reference to Member- Organized Community Events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.**

- (d) Where a Member of Council sponsors and/or lends support to a charitable organization's event, this Code recognizes that all donations are subject to the Code of Ethical Conduct.**

- (e) No donation cheques should be made out to a Member of Council.**

Nothing included herein affects the entitlement of a Member of Council to:

- i. Use her or his office expense budget to run or support community events subject to the terms of the Councillor Expense Policy section relating to Community Expense Events;**
 - ii. urge constituents, businesses and other groups to support community events and advance the needs of a charitable organization put on by others in the Member's Ward or elsewhere in the City;**
 - iii. play an advisory or membership role in any organization that holds community events in the Member's Ward; and**
 - iv. collaborate with the City of Vaughan and its agencies to hold community events.**
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- (f) Members of Council should not handle any funds on behalf of any charitable organization or Community group and should remain at arms length from the financial aspects of these community and external events.**

Rule No. 3

Confidential Information:

1. No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except when required by law or authorized by Council to do so.
2. No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation.
3. No Member shall directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
4. No Member shall disclose the content of any such matter, or the substance of deliberations, of the in-camera meeting until the Council or committee discusses the information at a meeting that is open to the public or releases the information to the public.
5. No Member shall permit any persons other than those who are entitled thereto to have access to information that is confidential.
6. No Member shall access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and not prohibited by Council policy.

Commentary:

Confidential information includes information in the possession of the City that the City is either prohibited from disclosing, or is required to refuse to disclose, such as under Access and Privacy legislation. Such legislation imposes mandatory or discretionary restrictions on disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, personal information about an individual disclosure of which would constitute an unjustified invasion of privacy, and information that is subject to solicitor-client privilege. Where it is clear that a communication was not made in a confidential manner (ie. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labeling it 'confidential', such communication will not be given any higher level of confidentiality than any other communication. The words 'privileged', 'confidential', or 'private' will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

For the purposes of the *Code of Ethical Conduct*, "confidential information" may also include information that concerns personnel, labour relations, litigation, property acquisitions, the security of the property of the City or a local board, and matters authorized in other legislation, to remain confidential.

Under the Procedural By-law, a matter that has been legitimately discussed at an in-camera (closed) meeting remains confidential, until such time as a condition renders the matter public.

Requests for information should be referred to appropriate staff to be addressed as either an informal request for access to municipal records or as a formal request under the Municipal Freedom of Information and Protection of Privacy Act.

Particular care should be exercised in ensuring confidentiality of the following types of information:

- the security of the property of the municipality or local board;
- personal information about an identifiable individual, including municipal or local body employees;
- a proposed or pending acquisition or disposition of land by the municipality or local board;
- labour relations or employee negotiations and personnel matters.
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act;
- items under contract negotiation
- price schedules in contract tender or Request For Proposal submissions
- statistical data required by law not to be released (e.g. certain census or assessment data)

Rule No. 4

Use of City Property, Services and Other Resources

No Member shall use for personal purposes any City property, equipment, services, supplies or services of consequence (for example, agency, board, commission, or City-owned materials, websites, board and City transportation delivery services, and any Members expense budgets) other than for purposes connected with the discharge of City duties, which may include activities within the Member's office of which City Council has been advised.

No Member shall obtain financial gain from the use of City developed intellectual property, computer programs, technological innovations or other patentable items, while an elected official or thereafter. All such property remains the exclusive property of the City of Vaughan.

No Member shall use information gained in the execution of his or her duties that is not available to the general public for any purposes other than his or her official duties.

Commentary:

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. This privilege should not be seen to be abused. In recognizing that members are held to a higher standard of behavior and conduct, members should not use such property for any purpose other than for carrying out their official duties. Careful attention should be given to the provisions of the City's Councillor expense policy which identifies approved allowable expenses.

During election campaigns, refer to Rule No. 5 and 7.

Rule No. 5

Election Campaign Work:

1. **Members are required to follow the provisions of the *Municipal Elections Act, 1996*.**

Commentary

Although the Integrity Commissioner of the City of Vaughan does not have jurisdiction to receive or investigate complaints regarding alleged contraventions of the *Municipal Elections Act*, (MEA) the Integrity Commissioner shall forward any information regarding a potential breach of the MEA by a Member of Council, directly to City Clerk.

2. **No member shall use the facilities, equipment, supplies, services or other resources of the City for any election campaign or campaign-related activities.**
3. **No member shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.**

Commentary

Paragraph 2 of Policy 01.32 provides as follows: "Given that the Municipal Elections Act prohibits the use of corporate resources for election-related purposes, in a municipal election year, commencing on June 30th until the date of the election, Members of Council may not book directly, or indirectly, any City facility for any purpose that might be perceived as an election campaign purpose."

Rule No. 6

Business Relations

- 1. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publicly traded and who is regularly in the business of lending money.**
- 2. No Member shall act as a paid agent before Council or a committee of Council or any agency, board, or committee of the City.**
- 3. No Member shall refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.**

Commentary

Members of Council are mindful to avoid any activity that may give rise to consideration of personal gain as a result of holding public office.

Rule No. 7

Improper Use of Influence:

- 1. No Member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.**

Commentary

Pursuant to corporate policy, the City Manager directs City Commissioners, who in turn, direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration.

Rule No. 8

Conduct At Council

- 1. Members shall conduct themselves at Council with decorum. Respect for deputants and for fellow members and staff requires that all members show courtesy and not distract from the business of the Council during presentations and when other members have the floor.**

Commentary

A Member of Council recognizes the importance of cooperation and strives to create an atmosphere during Council and Committee meetings that is conducive to solving the issues before Council, listening to various point of view and using respectful language and behavior in relation to all those in attendance.

Rule No. 9

Transparency & Openness in Decision Making and Member's Duties

- 1. Members shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session, so that stakeholders can view the process and rationale which was used to reach decisions, and the reasons for taking certain actions.**

Commentary

Various statutes, City by-laws, policies and procedures, as well as, decisions of courts and quasi-judicial tribunals form the basis of decisions made by City Council. Unless prohibited by legislation of by-law, Members of Council should clearly identify to the public how a decision was reached and upon which law, procedure and policy their decision was based.

Rule No. 10

Media Communications

- 1. Members of Council will accurately communicate the decisions of Vaughan's Council, even if they disagree with a majority decision of Council so that there is respect for and integrity in the decision making processes of Council.**

Commentary

A Member of Council may state that he or she did not support a decision, or voted against the decision. A member should refrain from making disparaging comments about Members of Council and Council's processes and decisions.

Rule No. 11

Representing the City

- 1. Members shall make every effort to participate diligently in the activities of the Committees, agencies, boards, commissions and advisory committees to which they are appointed.**

Commentary

Individual Members of Council are appointed to committees, agencies, boards and commissions based on their various backgrounds and ability to contribute diligently to matters before them bringing their expertise and experience.

Given that Council and Committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member of Council, to participate diligently means that a Member shall not be absent from Council, agencies, boards and commissions meetings without reasonable justification (i.e. illness of member, family circumstance,) for more than three consecutive scheduled meetings or on a regular basis.

Rule No. 12

Conduct Respecting Current and Prospective Employment:

- 1. No Member shall allow the prospect of his or her future employment by a person or entity to detrimentally affect the performance of his or her duties to the City.**

Rule No. 13

Encouragement of Respect for the City and Its By-Laws

- 1. Members shall encourage public respect for the City and its by-laws.**

Commentary

A Councillor must not denigrate a City by-law in responding to a citizen, as this undermines confidence in the City and the rule of law.

Rule No. 14

Harassment

- 1. Members shall be governed by the City's Respectful Workplace Policy.**
- 2. Harassment of a member by another member, staff or any member of the public is misconduct.**
- 3. Upon receipt of a complaint that relates to Rule No. 14, the Integrity Commissioner shall forward the information subject of the complaint to Human Resources who will refer it to an independent investigator.**

Commentary

It is the policy of the City of Vaughan that all persons be treated fairly in the workplace in an environment free of discrimination and of personal and sexual harassment.

The City of Vaughan's Respectful Workplace Policy (Harassment and Discrimination) ensures a safe and respectful workplace environment and appropriate management of any occurrences of harassment and discrimination as defined by the policy.

The City of Vaughan Policy applies to Members of Council and will provide guidance to the independent investigator. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall utilize the investigator's findings to make a determination on the application of the Code of Ethical Conduct and the merits to an investigation on the ethical conduct of the Member of Council subject of the complaint.

Rule No. 15

Discreditable Conduct

- 1. Members shall conduct themselves with appropriate decorum at all times.**

Commentary

As leaders in the community, members are held to a higher standard of behavior and conduct, and accordingly their behavior should be exemplary.

Rule No. 16

Conduct Respecting Staff:

1. No member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
2. No member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding, or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual member or faction of the Council.
4. No member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff and all members shall show respect for the professional capacities of the staff of the City.

Commentary

Members of Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalties of persons in power, or their personal opinions.

Members of Council must recognize that only Council as a whole has the capacity to direct staff members to carry out specific tasks or functions as provided in the Municipal Act. The Administration, under the direction of the City Manager, serves the Council as a whole, and the combined interests of all members as expressed through the resolutions of Council. An individual member should not request staff to undertake extensive work or prepare lengthy reports, other than pursuant to a Council direction.

It is inappropriate for a member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Any such attempts should be reported to the Integrity Commissioner.

Rule No. 17

Employment of Council Relatives/Family Members

- 1. No member shall attempt to influence the outcome, or to influence any City employee to hire or promote a member of a Councillor's family.**
- 2. No member shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any member of his or her family.**
- 3. No member shall supervise a family member, or be placed in a position of influence over a family member.**
- 4. No member shall attempt to use a family relationship for his or her personal benefit or gain.**
- 5. Every member shall adhere to the City's nepotism policy.**

Commentary:

If a family member of a Councillor is an applicant for employment with the City or candidate for promotion or transfer, the family member will proceed through the usual selection process pursuant to the City's hiring policies, with no special consideration.

Rule No. 18

Failure to Adhere To Council Policies and Procedures:

- 1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.**

Commentary

A number of the provisions of this *Code of Conduct* incorporate policies and procedures adopted by Council. More generally, Members of Council are required to observe the terms of all policies and procedures established by City Council.

Members must pay special attention to, and comply strictly with the Councillors Expense Policy.

This provision does not prevent a member of Council from requesting that Council grant an exemption from a policy.

Rule No. 19

Reprisals and Obstruction:

- 1. No Member shall obstruct the Integrity Commissioner in the carrying out of her or his responsibilities.**
- 2. No member shall threaten or undertake any act of reprisal against a person initiating an *inquiry or complaint* under the Code of Conduct or who provides information to the Integrity Commissioner in any investigation.**

Commentary

Members of Council should respect the intent of the *Code of Ethical Conduct* and investigations conducted under it. It is also a violation of the *Code of Ethical Conduct* to obstruct the Integrity Commissioner in the carrying out of her or his responsibilities, as, for example, by the destruction of documents or the erasing of electronic communications or refusing to respond in writing to a formal complaint lodged pursuant to the Complaint Protocol passed by Council.

Rule No. 20

Compliance with the Code of Ethical Conduct:

1. Upon receipt of the Integrity Commissioner's recommendations, Council may impose either of the following two penalties where the Integrity Commissioner reports that in her or his opinion, there has been a violation of the *Code of Conduct*:
 1. A reprimand; or
 2. Suspension of the remuneration paid to the member in respect of his or her services as a member of council or the local board, as the case may be, for a period of up to 90 days.

2. The Integrity Commissioner may also recommend that Council take the following actions:
 - i) Removal from membership of a Committee.
 - ii) Removal as Chair of a Committee.
 - iii) Repayment or reimbursement of moneys received.
 - iv) Return of property or reimbursement of its value.
 - v) A written and/or verbal request for an apology to Council, the complainant, or both.

Commentary

Members of Council are accountable to the public through the election process. Between elections they may, for example, become disqualified and lose their seat if convicted of an offence under the *Criminal Code* of Canada or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*.

In addition, the *Municipal Act* authorizes Council to impose either of two penalties on a Member of Council following a report by the Integrity Commissioner that, in her or his opinion, there has been a violation of the *Code of Ethical Conduct*.

Rule No. 21

Implementation

- 1. Council Members are expected to formally and informally review their adherence to the provisions of the Code on a regular basis or when so requested by Council.**
- 2. At the beginning of each term, Members of Council will be expected to sign two copies of the Code of Conduct.**
- 3. At the beginning of each term, each Member of Council shall meet with the Integrity Commissioner.**
- 4. At the beginning of each term, each Member of Council shall file an explanatory statement of all community organizations in which they participate, in the form provided by the Integrity Commissioner, within 60 days of being elected or appointed. Thereafter, each Member of Council shall file or update their disclosure statement, once in every calendar year on the date established by the Commissioner.**
- 5. Councillors and members of the public should not assume that any unethical activities not covered by or not specifically prohibited by these ethical standards of conduct, or by any legislation, are therefore condoned.**

Commentary

At the beginning of each term, Members of Council will be expected to sign two copies of the Code of Conduct (one for themselves and one for the Clerk's Office) to convey to each other and all stakeholders that they have read, understand and accept it.

A Code of Conduct component will be included as part of the orientation workshop for each new Council.

Code of Ethical Conduct Summary of Public Comments

Attachment 2

Number of Comments Received:

Total	83
Written	3
City staff	10
In Person	15
By telephone	54
Group meeting	1

Illustrative Comments Summary:

- *“Why is [the Code] to be given a ‘broad and liberal’ interpretation?”*
- *“Is there however an opp[or]tunity to increase the audience in which this code covers. In other words, should this code of conduct not extend to the Senior management within the [C]ity itself as well?”*
- *“Expenses... ‘are modest’. This is too generic to be considered as part of a code of conduct. Who determines what ‘modest’ is?”*
- *“I would also like to offer comments regarding the necessity to clearly state the distinction between a member of council acting in a political, partisan fashion and a council acting on behalf of the City of Vaughan; and to provide sever sanctions when abuse of power takes place in this regard...On one hand the mayor and the councillors in the exercise of their fiduc[i]ary responsibility, must be able to access information to ensure the effectiveness and wellbeing of the corporation...On the other hand, in exercising this fiduc[i]ary responsibility, it is entirely inappropriate for myself as a member of council to use this right to information for partisan political purposes.”*
- *“Page 6 item f) under Commentary as it relates to the City’s Purchasing Policies. If we are going to be transparent then we need a Purchasing By-law like other municipalities!!! As far as I am concerned the current policies are not adequate for the City of Vaughan.”*
- *[The Code] should include “first cousins” and staff – Commissioners, Directors, Managers, Supervisors, Clerical & Technical Union Staff, Hourly Union Staff, Part-time Union Staff and Temporary/Seasonal Staff.”*

- *“I think you need to develop a ‘Disclosure Form’ which Members of Council will need to provide to you at the start of their term in office which identifies their family members, where they live and what companies they hold or have an interest in. Doesn’t the Federal Government have something like this for Members of Parliament?”*
- *“Does Vaughan have a Purchasing By-law? Why do some of the other large cities have one and Vaughan only has policies?”*
- *“...sometimes council[l]ors raise money for banquets for charities. Often the people who buy the tickets don’t attend and the council[l]or gives the tickets to people in the community who are their supports, thereby building their support base with the donor’s money.”*
- *“Will this code have whistle-blower protection for people who don’t want repercussions?”*
- *“Why should councillors receive any gifts of any dollar value? Why not just say they can’t receive gifts?”*
- *The [C]ode of [C]onduct needs to be stiffened up with respect to gifts and the way in which charitable donations are used.”*
- *“If you stop councillors from helping us, is the City going to help us?”*
- *“How will you monitor gifts that [councillors] receive at their homes or dinners they don’t declare?”*
- *“Will councillors have to be suspended from participating at City Council when there is a sanction against them?”*
- *“When councillors take office their Oath of Office should include the Code of Conduct.”*
- *“Why do we need a Code? Isn’t his obvious to everyone?”*
- *“You should put a limit on how much they can receive.”*
- *“This Code is too long and it has too much. How are you going to enforce it?”*
- *“This Code should apply to City staff too.”*
- *“What about Councillors who pressure staff? Can we complain anonymously?”*

- *“How did you come up with \$500.00 for gifts? Are you saying that as long as they write it down they can keep it?”*
- *“This is a waste of time. Nobody is going to listen to you anyway.”*
- *There are so many holes in this new [C]ode of [C]onduct that you can drive a fleet of Mac trucks through it.*

The [C]ode does not address the real issues and instead tries to dictate everything a council member can do short of picking out living room furniture. I would be the first person to encourage a stricter [C]ode of [Co]nduct, however this rewritten [C]ode is absolutely ridiculous .

For example, the [C]ode restricts council members from borrowing money from any source except institutions registered on public stock exchanges. I have no idea how [you] think[] [you] could possibly enforce this, nor how it will even begin to meet council’s rights under the Canadian Constitution .

As well, the [C]ode restricts freedom of speech for members of council. [You] confuse[] democratic principles with bad manners. It is the right (and I would say obligation) of a council to represent their constituents with differing views. Rule 10 stifles public debate and gags council. We need debate coming from our council members and if certain members don’t happen to agree with the majority vote, then this does not mean a council member can no longer express their dissenting opinion. Codes of conduct are supposed to enhance and encourage democratic rights, not stifle them. Even the Supreme Court of Canada has dissenting opinions....but apparently this is not allowed in Vaughan.

[You] also venture[] into closed door meetings and into privacy. Privacy complaints belong to the IPC under MFIPPA and closed door meeting complaints to AMO/Amberley Gavel under section 239 of the Act. Clearly an integrity commissioner cannot make decisions as to confidential of documents nor can she make decisions on FOIs. If information is disclosed from closed meetings, then this is an item for the courts...

Lastly, public input is required. ONE business day is NOT public feedback.

I am requesting Council remove [you]. [You are] on probation and the Council should terminate [you] employment and find someone who will actually do the job of the Commissioner and fulfill the responsibilities under the resolution of council. [You] haf[ve] not fulfilled [your] responsibilities, and the last thing this city needs is another Commissioner collecting a pay cheque and not doing their job.

Craig, Suzanne

From: Jim Keenan [revkeenan@gmail.com]
Sent: July 7, 2009 11:17 AM
To: Integrity Commissioner
Subject: re code of conduct for Council

Dear Ms. Craig,

I have already commented by way of deputation to the Committee of the Whole on June 23 on the code of conduct document now approved in principle. My comments were also included as a letter to the Council Meeting of June 30, 2009.

Those comments were directed to the question of Council member sponsored/supported community events. I would also like to offer comments regarding the necessity to clearly state the distinction between a member of council acting in a political, partisan fashion and a council acting on behalf of the City of Vaughan; and to provide severe sanctions when abuse of power takes place in this regard.

Obviously, as elected officials they wear both hats. However, there are certain situations where they do have to take off their partisan political ones.

Right now the City has the Soave report regarding the inappropriate distribution of city documents to outsiders and penultimately to the press. This is the kind of situation that I am suggesting you attempt to address.

On one hand the mayor and the councillors, in the exercise of their fiduciary responsibility, must be able to access information to ensure the effectiveness and wellbeing of the corporation. For example, as mayor or as a councillor, I might see an employee or even another councillor acting in a way that may be harmful to the corporation. As a member of council I should be able to access the information required to determine, or to put in place a process to determine, whether or not some transgression or series of transgressions has taken place.

On the other hand, in exercising this fiduciary responsibility, it is entirely inappropriate for myself as a member of council to use this right to information for partisan political purposes. From all accounts and actual information I have received, without having seen the Soave report myself, this is actually what transpired in the case Ben Soave and Associates reviewed. However, at present, there are no clear sanctions in place for having acted in such a matter.

This situation is unacceptable. Members of Council should be able to access information that they need to exercise oversight over the corporation. Policies should not be developed that preclude them from doing so. But clearly, using this right of access to information for partisan political purposes is an abuse of power.

Therefore, I would ask you to study this matter to ensure that both needs are met: the right of the councillors as de facto board of directors of the corporation to exercise oversight; and that there are clear and heavy sanctions in place for the abuse of this power, in particular, for abusing this power for partisan political purposes.

I thank you in advance for your consideration of this matter.

16/09/2009

Sincerely,

Rev. Jim Keenan

9100 Jane St. Suite 416
Vaughan, Ontario
L4K 0A4

Craig, Suzanne

From: rlorello@rogers.com
Sent: July 23, 2009 1:10 PM
To: Craig, Suzanne
Cc: Carella, Tony; DiVona, Bernie; Ferri, Mario; Frustaglio, Joyce; Jackson, Linda; Meffe, Peter; Racco, Sandra; Rosati, Gino; Shefman, Alan; 'Phinjo Gombu'; Caroline Grech; Harris, Clayton
Subject: Code of Conduct

Commissioner Craig

I wish to draw your attention to the link below.

<http://www.cnn.com/2009/CRIME/07/23/new.jersey.arrests/index.html>

There are striking parallels to Vaughan in this article.

This is exactly why your draft code of conduct is so important and needs to have more teeth. The code of conduct needs to be stiffened up with respect to gifts and the way in which charitable donations are used.

I think you can use this particular article to strengthen the case that the code of conduct should not be taken lightly. I am not saying that the law has been broken in Vaughan, however do we really know and understand how and where charitable donations are being used when various councillors have refused to open their books on their charity projects.

I have personally approached councillor Ferri to bring transparency to his charity projects through audits and legitimizing his projects in the eyes of the world. He has refused my request. I am very much in support of a new code of conduct but I am very concerned that it has been or will be watered down further. Even if council refuses a request to strengthen the code of conduct you will have the support of the public on this issue.

Please refer to the link as an exercise of what we are trying to avoid. I would be happy to meet with you to discuss some ideas and provide some input. This is an opportunity to correct and avoid what has just happened in New Jersey.

Sincerely
Richard T. Lorello
C/O City of Vaughan Citizens Group

Craig, Suzanne

From: falulio@rogers.com
Sent: June 22, 2009 11:23 AM
To: Craig, Suzanne
Subject: Comments on the New Code of Ethical Conduct

Hello Ms. Craig,

I am a vaughan resident and have taken the opportunity to read the Code of Conduct for Members of Council for the city of Vaughan.

I appreciate the opportunity to provide my personal feedback and have documented my concerns below.

Framework and Interpretation

1. I understand the purpose of such a document and its importance in relation to the acceptable behaviour of members of council. Is there however an opportunity to increase the audience in which this code covers. In other words, should this code of conduct not extend to the Senior management within the city itself as well? I would assume there is a separate code for employees and management of city but the synergies and requirements of conduct should be very similar if not the same considering they all represent the city.

2. Why is this to be given as "broad" and "liberal" interpretation? I would think that such a code should be "specific" and "authoritative"? My concern is that broad and liberal begins to plant the seeds of doubt about the document's relevance and creates possible "grey areas" in interpretation.

Rule # 1 (E). Should there not be wording that prohibits not only from them not being part of management, but from not "profiting" directly or indirectly from such companies that do business with the city?

Rule 2 - Part 2 (B) - Expenses....."are modest". This is too generic to be considered as part of a code of conduct. Who determines what "modest" is? Can it be determined that "modest" means the same to everyone? I would think not. Is "modest" a moving or stagnant number? What interdependencies, if any, are there that change what "modest" is? To be effective, there needs to be exact dollar expense figures (that can not be exceeded) attached to specific meals (breakfast, lunch and dinner). Also, there should be direction taken on when meetings that involve expenses such as meals are acceptable.

I look forward to your thoughts about the comments above and hope the final draft will take in to consideration the concerns described.

All the best in making the code of conduct a reality. The city of Vaughan is in desperate need of such direction.

Regards,

Frank Alulio

16/09/2009