



COUNCIL MINUTES

October 16, 2012, 7:00 p.m.

Council Chamber, Anthony Roman Markham Civic Centre

Meeting No. 16

Alternate formats for this document are available upon request

ROLL CALL

Mayor Frank Scarpitti, Deputy Mayor Jack Heath, Regional Councillor Jim Jones, Regional Councillor Gord Landon, Regional Councillor Joe Li Councillor Valerie Burke, Councillor Howard Shore, Councillor Don Hamilton, Councillor Carolina Moretti, Councillor Colin Campbell, Councillor Alan Ho, Councillor Logan Kanapathi, Councillor Alex Chiu.

STAFF

Andy Taylor, Chief Administrative Officer
Catherine Conrad, City Solicitor
Brenda Librecz, Commissioner of Community and Fire Services
Trinela Cane, Commissioner of Corporate Services
Jim Baird, Commissioner of Development Services
Joel Lustig, Treasurer
Martha Pettit, Acting City Clerk
Alida Tari, Council and Committee Coordinator
Stephen Huycke, Acting Deputy Clerk
Dennis Flaherty, Director, Communications & Community Relations
John Wong, Technology Support Specialist
Alain Cachola, Manager, Infrastructure and Capital Works
David Pearce, Real Property Manager

The regular meeting of Council convened at 7:11 p.m. on October 16, 2012 in the Council Chamber. Mayor Frank Scarpitti presided.

1. DISCLOSURE OF PECUNIARY INTEREST

- (1) None declared.

2. MINUTES**(1) COUNCIL MINUTES – OCTOBER 3, 2012**[Minutes](#)

Moved by Councillor Alex Chiu

Seconded by Councillor Valerie Burke

- 1) That the Minutes of the Council Meeting held on October 3, 2012, be adopted.

CARRIED

3. PRESENTATIONS

There were no presentations.

4. DELEGATIONS

Council consented to add Delegation Nos. 1 and 2.

(1) MARION MATTHIAS (9.0)

- addressed Council regarding the item titled "Information Report on the Federal Electoral Districts Proposal for the Province of Ontario" and spoke in support of the City of Markham's recommendation.

Moved by Regional Councillor Jim Jones

Seconded by Councillor Howard Shore

That Council consider the matter titled "Information Report on the Federal Electoral Districts Proposal for the Province of Ontario" immediately following the delegation with respect thereto.

(See Item No. 7, Report No. 49 for Council's decision on this matter)

CARRIED

- (2) WES ROWE, UNIONVILLE VILLAGERS' ASSOCIATION (10.14)
- Addressed Council regarding the item titled "Public Information Meeting Minutes - October 9, 2012 (Lane Naming East of Main Street Unionville)" and spoke in support of not renaming the Lane.

Moved by Councillor Don Hamilton
Seconded by Deputy Mayor Jack Heath

That Council consider the item titled "Public Information Meeting Minutes - October 9, 2012 (Lane Naming East of Main Street Unionville)" immediately following the delegation with respect thereto.

(See New/Other Businesses Item No. 4 for Council's decision on this matter)

CARRIED

5. PETITIONS

There were no petitions.

6(a) REPORT NO. 48 - DEVELOPMENT SERVICES COMMITTEE (October 9, 2012)

Moved by Regional Councillor Jim Jones
Seconded by Councillor Don Hamilton

That Report No. 48 – Development Services Committee comprised of 1 item be received and adopted.

- (1) RECOMMENDATION REPORT
ONTARIO MUNICIPAL BOARD APPEAL
ARYEH CONSTRUCTION LIMITED
8293 WARDEN AVENUE
APPLICATION FOR SITE PLAN APPROVAL
FOR A HIGH DENSITY RESIDENTIAL DEVELOPMENT
(SC 10 131755) (10.6)
[Report](#) [UpdateMemo](#)

- 1) That the staff report dated October 9, 2012 titled "Recommendation Report, Ontario Municipal Board Appeals, Aryeh Construction Limited, 8293 Warden Avenue, Application for site plan approval for a high density residential development, File No. SC 10 131755" be received; and,

- 2) That the memorandum dated October 15, 2012 providing an update on the timing of the construction of Clegg Road to coordinate with the needs of Markham District Energy, presented to Council on October 16, 2012, be received; and,
- 3) That the City Solicitor or her designate and all necessary staff be directed to attend the OMB hearing to support the approval of site plan application SC 10 131755 on the basis of:
 - a) The following plans, subject to the provisions of Clause 3, below:
 - i. Site Plan, Drawing SPA-101, prepared by E.I. Richmond Architects Ltd., Plot Date: August 28, 2012
 - ii. East Elevation, Drawing SPA-401, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - iii. West Elevation, Drawing SPA-402, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - iv. South Elevation, Drawing SPA-403, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - v. North Elevation, Drawing SPA-404, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - vi. South Interior Elevation and Section, Drawing SPA-405, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - vii. North Interior Elevation and Section, Drawing SPA-406, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - b) The conditions attached as Appendix 'A' to the October 9, 2012 staff report, and,
- 4) That the Commissioner of Development Services be delegated the authority to approve revisions to the conditions of site plan approval referenced in Appendix "A" of this staff report, and to approve revisions to the site plan and elevation drawings referenced in Recommendation 2 of this staff report, including updating the plot dates on such plans and drawings; and,
- 5) That Part of Block 7, Plan 65M-4294, Town of Markham, Regional Municipality of York, designated as Part 1 on Plan 65R-33837 be declared surplus to City purposes in accordance with By-law 178-96 and conveyed to Aryeh Construction Limited under the terms and conditions set out in this report, including a purchase price of \$405,000; and,
- 6) That the Mayor and Clerk be authorized to execute an Agreement of Purchase and Sale between the City and Aryeh Construction Limited in a form and content satisfactory to the City Solicitor and Chief Administrative Officer with respect to the sale of the said lands to Aryeh; and,
- 7) That Council authorize the Mayor and Clerk to enter into a Section 37 Agreement with Aryeh Construction Limited to secure a Section 37 contribution in the amount of \$1,333 per unit; and,

- 8) That the Mayor and Clerk be authorized to execute the necessary documentation to give effect to the forgoing resolution; and,
- 9) That conditional 2015 servicing allocation for 340 units be granted from the Regional allocation when it becomes available to Markham, subject to written confirmation from the Trustee of the Markham Centre Landowners Group; and,
- 10) That the Heritage house be completed in a timely manner and constructed in concurrence with the development by Aryeh Construction Limited; and further,
- 11) That staff be authorized and directed to do all things necessary to give effect to this resolution.

(New/Other Business Item No. 3)

CARRIED

Council consented to receive the memorandum dated October 15, 2012 providing an update on the timing of the construction of Clegg Road to coordinate with the needs of Markham District Energy.

6(b) REPORT NO. 49 - GENERAL COMMITTEE (October 15, 2012)

Council consented to separate Item Nos. 4, 6, 7 and 8.

Moved by Councillor Alex Chiu

Seconded by Councillor Colin Campbell

That Report No. 49 – General Committee comprised of 9 items be received and adopted, except Item Nos. 4, 6, 7 and 8. (See following Item Nos. 4, 6, 7 and 8)

(1) YORK REGION GIFT OF LIFE ASSOCIATION (7.0)

[Presentation](#)

- 1) That the presentation by Mr. Bruce Cuthbert, entitled “York Region Municipal Organ Challenge” be received; and,
- 2) Whereas organ donors can save many lives; and,
- 3) Whereas the Province of Ontario and York Region is considerably far behind in organ donations when compared to all of the other provinces, and many other parts of the world; and,

- 4) Whereas the City of Markham has a consent registration rate of 9% which is below the York Region rate (under 19%); and,
- 5) Whereas the York Region Gift of Life Association is hosting a challenge to all of the municipalities in York Region to raise the number of Consent Registrations commencing November 1, 2012 through to January 30, 2013; and further,
- 6) Now therefore be it resolved that the Mayor, Council and City of Markham participate in promoting the challenge and encouraging Consent Registration in the City of Markham.

CARRIED

(2) APPOINTMENT BYLAW (2.0)

[Report](#) [Attachment 1](#)

- 1) That the report titled "*A By-law to Appoint Municipal Law Enforcement Officers*" be received; and,
 - 2) That Attachment "A" – "The Proposed By-law to Appoint Municipal Law Enforcement Officers" be enacted; and further,
 - 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.
- (By-law 2012-195 withdrawn)

CARRIED

(3) WORLD CONGRESS ON INFORMATION
TECHNOLOGY (WCIT 2012) (7.0)

[Report](#) [Attachment](#)

- 1) That the report entitled "World Congress on Information Technology (WCIT 2012)" be received; and
- 2) That the City be represented by Mayor Frank Scarpitti; and
- 3) That the total cost of attending the WCIT 2012 not exceed \$1,350.00 and be expensed from within Economic Development's operating budget (Business Travel Acct.# 610-998-5201); and

- 4) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED

(4) AWARD OF TENDER 187-T-12 BERCZY PARK
PAVILION, MAINTENANCE BUILDING AND
WATERPLAY CONSTRUCTION (7.0)

[Report](#) [Memo](#)

- 1) That the report entitled “Award of Tender 187-T-12 Berczy Park Pavilion, Maintenance Building and Waterplay Construction” be received; and,
- 2) That the memorandum dated October 16, 2012 providing information on capital and operating cost implications relative to asphalt roof versus metal roof for the Berczy Park Pavilion, presented to Council on October 16, 2012, be received; and,
- 3) That the contract for tender 187-T-12 Berczy Park Pavilion, Maintenance Building and Waterplay Construction be awarded to the lowest priced, qualified bidder, Rutherford Contracting Ltd., in the amount of \$1,550,714.53 inclusive of HST; and,
- 4) That a separate purchase order in the amount of \$155,071.45 inclusive of HST be established as a contingency to cover any unforeseen construction /design costs and that the Director of Planning and Urban Design be authorized to approve this contingency amount up to the specified limit in accordance with the Expenditure Control Policy; and,
- 5) That the internal administration fee in the amount of \$153,520.74 be charged to account 081-5350-7624-005 Berczy Park Waterplay/Tennis; and,
- 6) That the award in the amount of \$1,379,416.23 inclusive of HST be funded from account 081-5350-7624-005 Berczy Park Waterplay/Tennis in the amount of \$555,032.64 and 081-5350-6644-005 Berczy CP Pav. & Maint. Building in the amount of \$824,383.59; and,
- 7) That the shortfall in the amount of \$479,890.49 be funded from the following; Berczy Park South Final (Account #81-5350-9352-005) in the amount of \$189,855.70; Berczy Comm. Park Design (Account #81-5350-8045-005) in the amount of \$114,514.88; Park Development DC Reserve (\$157,967.92 or 90%) and the Capital Contingency (\$17,551.99 or 10%) based on the original funding split of the project; and further,

- 8) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED

Council consented to receive the memorandum dated October 16, 2012 providing information on capital and operating cost implications relative to asphalt roof versus metal roof for the Berczy Park Pavilion.

- (5) A BY-LAW TO PROHIBIT THE DISPLAY, MARKETING FOR SALE AND SALE OF IMITATION AND REPLICA FIREARMS (2.0)
[Report](#) [Attachment](#)

- 1) That the report titled “A By-law to Prohibit the Display, Marketing for Sale and Sale of Imitation and Replica Firearms” be received; and,
- 2) That Attachment ‘A’ –Draft By-law to Prohibit the Display, Marketing for Sale and Sale of Imitation and Replica Firearms” be enacted; and further,
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.
(By-law 2012-196)

CARRIED

- (6) COUNCIL VACANCY POLICY (9.0)
[Report](#) [Attachment](#) [RevisedPolicy](#)

Moved by Councillor Alex Chiu

Seconded by Councillor Colin Campbell

- 1) That the report entitled “Council Vacancy Policy” be received; and,
- 2) That Council approve the proposed “Council Vacancy Policy” (Attachment “A”) as amended at the October 15, 2012 General Committee meeting; and further,
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED BY A UNANIMOUS RECORDED VOTE (13:0)

(See following recorded vote)

(See following request for recorded vote)

YEAS: Mayor Frank Scarpitti, Deputy Mayor Jack Heath, Regional Councillor Jim Jones, Regional Councillor Gord Landon, Regional Councillor Joe Li, Councillor Valerie Burke, Councillor Howard Shore, Councillor Don Hamilton, Councillor Carolina Moretti, Councillor Colin Campbell, Councillor Alan Ho, Councillor Logan Kanapathi, Councillor Alex Chiu.

Moved by Regional Councillor Joe Li
Seconded by Regional Councillor Jim Jones

That the rules of procedure be suspended to permit the request for a recorded vote regarding the item titled "Council Vacancy Policy", although the matter was adopted by Council earlier in the meeting.

CARRIED

(2/3 Vote was requested & obtained)

(7) INFORMATION REPORT ON THE FEDERAL
ELECTORAL DISTRICTS PROPOSAL FOR THE
PROVINCE OF ONTARIO (9.0)

[Report](#) [Attachment A](#) [Attachment B](#) [Attachment C](#) [Attachment D](#)
[Attachment E](#) [Attachment F](#) [Attachment G](#) [Attachment H](#)

- 1) That the information report entitled "Information Report on the Federal Electoral Districts Proposal for the Province of Ontario" be received; and,
- 2) That the Mayor be authorized to send a letter to the *Federal Electoral Boundaries Commission for the Province of Ontario* expressing Council's opinion on the proposed Federal Electoral Boundaries; and,
- 3) That the Mayor, or designate, be authorized to attend before the Federal Boundary Commission to express the following concerns:
 - That historical, social and economic factors are also considered when determining the boundaries;
 - That the portion of the proposed Markham riding that is west of Highway 404 and east of Bayview Avenue be included in the proposed Vaughan-Thornhill federal electoral district;
 - That the proposed Vaughan-Thornhill federal electoral district should be called "Thornhill";
 - That the proposed Markham riding should also include the area of the City of Markham that is south of Highway 407, west of the York-Durham Line and east of Highway 48; and,

- 4) That the Federal Boundary Commission be requested to correct their Federal Electoral Boundaries Commission for the Province of Ontario report to make clear that there are only 4 (four) electoral ridings not 5 (five) that encompass part of the City of Markham; and further,
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED BY A UNANIMOUS RECORDED VOTE (13:0)

(See following recorded vote)

YEAS: Mayor Frank Scarpitti, Deputy Mayor Jack Heath, Regional Councillor Jim Jones, Regional Councillor Gord Landon, Regional Councillor Joe Li, Councillor Valerie Burke, Councillor Howard Shore, Councillor Don Hamilton, Councillor Carolina Moretti, Councillor Colin Campbell, Councillor Alan Ho, Councillor Logan Kanapathi, Councillor Alex Chiu.

(See following minor revisions)

Council consented to the following minor revisions:

Resolution No. 3

- Delete the following bullet point in its entirety:

- That the proposed Markham federal electoral district should be called "Markham-Milliken";

- Add the underlined word "...also..." to the bullet point as follows:

- That the proposed Markham riding should also include the area of the City of Markham that is south of Highway 407, west of the York-Durham Line and east of Highway 48;

Resolution No. 4

Delete the strikethrough word "...within..." and add the underlined words "...only..." and "...that encompass part of..." as follows:

- 4) That the Federal Boundary Commission be requested to correct their Federal Electoral Boundaries Commission for the Province of Ontario report to make clear that there are only 4 (four) electoral ridings not 5 (five) that encompass part of ~~within~~ the City of Markham;

(See following to consider the matter)

Moved by Regional Councillor Jim Jones
Seconded by Councillor Howard Shore

That Council consider the matter titled "Information Report on the Federal Electoral Districts Proposal for the Province of Ontario" immediately following the delegation with respect thereto.

CARRIED

(8) CORNELL COMMUNITY CENTRE AND
LIBRARY - PARKING GARAGE OPERATION (5.0)
[Report](#)

Moved by Councillor Alex Chiu
Seconded by Councillor Colin Campbell

- 1) That the report titled Cornell Community Centre and Library – Parking Garage Operation be received; and,
- 2) That Council endorse a no- charge parking for a maximum of up to three (3) hours for the Cornell Community Centre & Library users for the use of the parking structure; and,
- 3) That the rate to be charged after the three (3) hour maximum and the proposed Cost Recovery Policy be deferred to the November 12, 2012 Special General Committee meeting; and,
- 4) That staff be authorized to award a contract to Precise Parklink Inc. for the installation and maintenance of parking equipment at the Cornell Community Centre and Library in the estimated capital amount of \$220,000, not to be exceeded without further authorization; and,
- 5) That the tendering process be waived in accordance with Purchasing By-Law 2004-341, Part II, Section 7 (part 1) G, Non Competitive Procurement, “*Where it is in the City’s best interest not to solicit a competitive*”; and,
- 6) That the award for purchasing of parking equipment for the Cornell Community Centre and Library in the estimated amount of \$220,000 be funded at 90% from the Development Charges (DC) Reserve fund in the amount of \$198,000 and 10% from the Capital Contingency account in the amount of 22,000; and further,
- 7) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED BY A RECORDED VOTE (11:1)
(See following recorded vote)

YEAS: Mayor Frank Scarpitti, Deputy Mayor Jack Heath, Regional Councillor Jim Jones, Regional Councillor Joe Li, Councillor Valerie Burke, Councillor Howard Shore, Councillor Don Hamilton, Councillor Colin Campbell, Councillor Alan Ho, Councillor Logan Kanapathi, Councillor Alex Chiu. (11)

NAYS: Regional Councillor Gord Landon. (1)

ABSENT: Councillor Carolina Moretti. (1)

(9) DIVERSION TASK FORCE REPORT (5.10)

[Report](#) [Attachment](#) [Presentation](#)

- 1) That the report entitled “Diversion Sub Committee Strategy – Markham’s Roadmap to 80% Diversion” be received; and,
- 2) That Council endorse the attached Diversion Sub Committee Strategy “ The Best of the Best – Markham’s Roadmap to 80% Diversion” and the initiatives and programs outlined in the strategy form the basis of Markham’s 3 year plan to attain 80% diversion by 2014; and,
- 3) That York Region be advised that Markham will support the Regions compostable bag initiative by continuing to provide education to residents on the environmental benefits of using certified compostable bags for Green Bin organics; and,
- 4) That staff be directed to report back to the General Committee relative to a roll-out program in the near future; and,
- 5) That residents be encouraged to use garbage cans together with the clear bag program; and,
- 6) That a copy of this report be forwarded to York Region and Local Municipalities for their information; and further,
- 7) That staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED

7. MOTIONS

(1) CITY OF MARKHAM POSITION REGARDING THE PROPOSED NEW FEDERAL ELECTORAL BOUNDARIES (13.1)

Note: Council consented to withdraw this motion in its entirety as Council considered a staff recommendation report titled “Information Report on the Federal Electoral Districts Proposal for the Province of Ontario” earlier in the meeting.
(See Item No. 7, Report No. 49 for Council's decision on this matter).

The notice of this motion was given at the October 3, 2012 Council meeting, moved by Councillor Howard Shore and seconded by Councillor Valerie Burke.

Whereas every 10 years, after the census is conducted, the number of electoral districts and their boundaries are revised to reflect population shifts and growth; and,

Whereas ten electoral boundaries commissions have been established. They operate independently in each province to propose new boundaries, consult with Canadians and create the new electoral map for their province; and,

Whereas the number of electoral districts represented in the House of Commons is derived from the formula and rules set out in sections 51 and 51A of the Constitution Act, 1867. This formula takes into account changes to provincial population, as reflected in population estimates in the year of the most recent decennial census. The increase to Canada's population in the past 10 years has resulted in a change to the total number of electoral districts represented in the House of Commons, from 308 to 338. Between the censuses of 2001 and 2011, the population of Ontario increased from 11,410,046 to 12,851,821. The number of electoral districts in Ontario increased from 106 to 121; and,

Whereas Parliament has determined that Ontario should have 15 additional electoral districts, raising the total number of electoral districts in the province from 106 to 121. When readjusting electoral boundaries, the Commission is required to apply the principles contained in the Electoral Boundaries Readjustment Act. The Act directs the Commission to ensure that the population in each electoral district shall, as closely as reasonably possible, correspond to the electoral quota for the province. The quota for electoral districts in Ontario is 106,213, which is established by dividing the census population by the number of electoral districts assigned to the province; and,

Whereas The Act permits the Commission to depart from the quota where necessary or desirable in order to:

- respect the community of interest or community of identity in, or the historical pattern of an electoral district in the province; and,

Whereas the Commission proposes an electoral district named VAUGHAN—THORNHILL, comprised of that portion of the current electoral district of Thornhill lying west of Bayview Avenue. It has a population of 110,427 and is 3.97% above the provincial quota; and,

Whereas the Commission proposes the electoral district of MARKHAM, comprised of portions of the current electoral districts of Markham—Unionville and Thornhill. It is bounded on the north by Highway No. 7, on the east by Markham Road and Main Street South, on the south by the City of Toronto boundary, and on the west by Bayview Avenue. It has a population of 109,559 and is 3.15% above the provincial quota; and,

Whereas the current, existing boundaries of Thornhill consists of that part of the Regional Municipality of York comprised of:

- (a) that part of the City of Vaughan lying easterly and southerly of a line described as follows: commencing at the intersection of the southerly limit of said city with Highway No. 400; thence northerly along said highway to Rutherford Road; thence easterly along said road to the westerly limit of the Town of Richmond Hill; and,
- (b) that part of the Town of Markham lying westerly of Highway No. 404; and,

Whereas it is desirable to avoid fragmenting traditional neighbourhoods or communities of interest within the municipality; and,

Whereas it is considered desirable to keep communities of similar historic background and interest contained united; and,

Whereas consideration should be given to using natural and man-made features such as the existing Highway 404 as boundaries that already serve as a physical boundary of the community; and,

Whereas where feasible, the preferred features to define an electoral boundary should be arterial roads, highways, railway lines, rivers and creeks; and,

Whereas the effect of the suggested boundary realignment would be to fragment the municipal portion into two separate Federal ridings creating a sentiment of alienation among Thornhill-Markham residents who would be a sizeable minority dominated by another municipality;

Now therefore be it resolved:

- 1) That the City of Markham reaffirm its support for the historical importance of Thornhill; and,
- 2) That the City of Markham reaffirm its support for the integrity of maintaining intact, all of that part of Thornhill currently known as Ward 1 and 2 municipally; and,

- 3) That the City of Markham reaffirm its support for the boundaries of the current, existing Federal Riding of Thornhill; and further,
- 4) That a copy of this Resolution be forwarded to the Federal Election Commission, the Prime Minister of Canada, Members of Parliament for the Federal Ridings of Thornhill, Vaughan and Markham-Unionville.

MOTION WITHDRAWN

8. NOTICES OF MOTIONS

(1) STRATEGIC LITIGATION AGAINST PUBLIC PARTICIPATION (SLAPP) (7.0)

Moved by Councillor Howard Shore

Seconded by Councillor Valerie Burke

Whereas Strategic litigation against public participation (SLAPP) has been defined as a lawsuit started against one or more persons or groups who speak out or take a position on an issue of public interest; and,

Whereas the intent of such litigation is to limit the freedom of expression of the defendants and neutralize their actions by resorting to the courts to intimidate them, exhaust their resources and reduce their means of action by redirecting their energy and finances into defending a lawsuit and away from their original public criticism; and,

Whereas Strategic Lawsuits Against Public Participation (SLAPP) are a major impediment to free speech in Ontario; and,

Whereas these frivolous lawsuits are a waste of already overburdened Court time and resources; and,

Whereas concerns have been raised that SLAPPs also act as a warning to other potential critics, including Ratepayer Associations and community activists; and,

Whereas SLAPP is a form of bullying and intimidation, and an abuse of our judicial and quasi-judicial systems the effect and intent of which is to discourage public debate; and,

Whereas the SLAPP experience, already familiar in the United States, first appeared in Canada as a type of abuse of process, or began to be identified as such, in the 1990s. A number of companies initiated legal proceedings that fit the definition of a SLAPP in order to silence groups or citizens who were speaking out on public issues, especially on environmental, but also municipal or consumer, issues; and,

Whereas abusive SLAPP lawsuits are an observable reality and constitute a serious threat to the participation of citizens and groups in public debate; and,

Whereas the public's right to participate in decision-making in matters of public interest is a cornerstone of our democratic system; and,

Whereas the only way to protect the citizen's right to public participation is through the creation of effective legislation; and,

Whereas Article 25 of the *International Covenant on Civil and Political Rights* states:

“Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country”; and,

Whereas the province of Quebec and over half of U.S. states have anti-SLAPP legislation; and,

Whereas the Association of Municipalities of Ontario has passed a resolution to meet with the provincial government in order to find solutions to SLAPP intimidation in Ontario; and,

Whereas more than 60 municipalities in Ontario have passed resolutions calling on the provincial government to protect citizens and adopt anti-SLAPP legislation; and,

Whereas Yasir Naqvi, Member of Provincial Parliament for Ottawa Centre, tabled a private member's bill on October 15, 2012 – *the Protection of Public Participation Act* – that targets Strategic Lawsuits Against Public Participation (SLAPPs), and,

Whereas the City of Markham believes that the right to participate in public affairs is an essential condition for the effective exercise of the right to freedom of expression and right of association and implies the free communication of information and freedom of the press and further, the right to hold opinions without interference.

Therefore be it resolved that:

- 1) Council through the Mayor, write to the Attorney General and Premier of Ontario urging the adoption of the “Anti-SLAPP Advisory Panel Report to the Attorney General of Ontario dated October 28, 2012” and enact anti-SLAPP legislation, to discourage SLAPP intimidation and protect citizens' rights to free speech and participation in public debate, without fear of frivolous and meritless lawsuits; and,

- 2) That Council recommend to the Attorney General and Premier of Ontario to extend Parliamentary Privilege to members of municipal Councils where a member of the Council participates in the exercise of their responsibilities representing the constituents of their electoral district, and generally, the carrying out of the functions of his or her responsibilities as Councillor, the Councillor shall not be held personally liable for SLAPP lawsuits; and further,
- 3) The City of Markham shall protect the right to freedom of expression and opinion of any duly elected Councillor, Regional Councillor or Mayor, exercising his or her responsibilities representing the constituents of their electoral district, and generally, the carrying out of the functions of his or her responsibilities as Councillor by indemnifying, defending and holding harmless said Councillor from any such frivolous lawsuit.

Note: Council consented to consider the motion titled "Strategic Litigation Against Public Participation (SLAPP)" when the staff report on same is being presented to Council for consideration at a future meeting.

9. COMMUNICATIONS

Council consented to add Communication No. 70-2012.

Moved by Councillor Alex Chiu
Seconded by Councillor Alan Ho

That Council receive and consent to the disposition of communications in the following manner:

Received

68-2012 CITY OF MARKHAM CONGRATULATION MESSAGES (12.0)

Letters

1. David C. Onley, Lieutenant Governor of Ontario.
2. Dalton McGuinty, Premier of Ontario.
3. Glen Murray, Minister of Training, Colleges Universities.
4. Julian Fantino, M.P. for Vaughan.
5. Vito Spatafora, Deputy Mayor, Regional & Local Councillor, Town of Richmond Hill.
6. Harold Albrecht, M.P. for Kitchener-Conestoga.
7. Jobert Sevileno, President & CEO and Kristian Alexander, Music Director, Kindred Spirits Orchestra.
8. Winston Wen-yi Chen, Director-General, Taipei Economic & Cultural Office, Toronto.
9. Aksel Rinck, Head of Museum, Town of Nordlingen, Germany.
10. Hermann Faul, Mayor, Town of Nordlingen, Germany.
11. Carolin Schober-Mittring, Chairperson, Friends of Markham, Town of Nordlingen, Germany.

CARRIED

69-2012 MINISTER OF CITIZENSHIP AND IMMIGRANT OF ONTARIO CALLING NOMINATIONS FOR THE 2012 JUNE CALLWOOD OUTSTANDING ACHIEVEMENT AWARD FOR VOLUNTARISM IN ONTARIO (13.2)

Letter

- The award recognizes exceptional leadership, innovation and creativity in voluntarism and community service. Deadline for nominations is December 5, 2012.

CARRIED

- 70-2012 LIQUOR LICENCE APPLICATION FOR MIFUNE SUSHI RESTAURANT LIMITED, 3160 STEELES AVENUE EAST, UNIT 118 (WARD 8) (3.21)

[Info](#)

- Forwarding a request for the City of Markham to complete the Municipal Information Form.

(Change of ownership and application of a liquor licence for indoor areas previously licenced).

CARRIED

10. PROCLAMATIONS

- (1) PROCLAMATION REQUESTS (3.4)

Moved by Councillor Alex Chiu

Seconded by Councillor Carolina Moretti

- 1) That the following proclamations issued by the City Clerk in accordance with the City of Markham Proclamation Policy be received for information purposes:
- Ontario Public Library Week (October 14 to 20, 2012)
 - Character Community Week (October 22 to 27, 2012)
 - Restorative Justice Week (November 18 to 25, 2012).

CARRIED

11. NEW/OTHER BUSINESSES

Council consented to add New/Other Businesses Item Nos. 5 and 6.

- (1) WYKLAND ESTATES INC.
WEST OF CORNELL CENTRE BLVD., SOUTH OF 16TH AVENUE
CORNELL COMMUNITY, FILE NUMBER: ZA 12-124233 (10.5)

[Memo](#)

Moved by Regional Councillor Gord Landon

Seconded by Councillor Alan Ho

- 1) That the memorandum dated October 16, 2012 titled "Wykland Estates Inc., West of Cornell Centre Blvd., south of 16th Avenue, Cornell Community, File Number: ZA 12-124233" be received; and,

- 2) That the 2011 servicing allocation for 224 single detached units (828.8 population), 96 Semi-detached units (289.92 population) and 164 townhouse units (462.48 population) for a total of 484 units (1,581.2 population) be granted to Plan of Subdivision 19TM-10002 – Phase 2, 3 and 4 (Wykland Estates Inc.) from the total allocation for the Cornell Secondary Plan, assigned in accordance with the June 26, 2012 staff report on servicing allocation.

(See By-law 2012-189)

CARRIED

- (2) CORNELL ROUGE DEVELOPMENT CORP
SOUTH OF WHITES HILL AVENUE
WEST OF DONALD COUSENS PARKWAY
CORNELL COMMUNITY, FILE NUMBER: ZA 12-131562 (10.5)

[Memo](#)

Moved by Councillor Colin Campbell
Seconded by Regional Councillor Gord Landon

- 1) That the memorandum dated October 16, 2012 titled "Cornell Rouge Development Corp, south of Whites Hill Avenue, west of Donald Cousens Parkway, Cornell Community, File Number: ZA 12-131562" be received; and,
- 2) That the 2011 servicing allocation for 147 single detached units (543.9 population), 16 Semi-detached units (48.32 population) and 68 townhouse units (191.76 population) be granted to Plan of Subdivision 19TM-08002 – Phase 4C (Cornell Rouge Development Corp) from the total allocation for the Cornell Secondary Plan, assigned in accordance with the June 26, 2012 staff report on servicing allocation.

(See By-law 2012-190)

CARRIED

- (3) PART OF BLOCK 7, PLAN 65M-4294,
DESIGNATED AS PART 1 ON PLAN 65R-33837
(ARYEH CONSTRUCTION LIMITED) (8.5 AND 10.6)

*Notices of Proposed Sale
Town of Markham
Proposed Sale of Surplus Real Property
(Pursuant to By-law 178-96)*

Moved by Councillor Don Hamilton
Seconded by Councillor Valerie Burke

- 1) That the notice of proposed sale for the Town owned lands legally described as Part of Block 7, Plan 65M-4294, designated as Part 1 on Plan 65R-33837 be confirmed.
(Item No. 1, Report No. 48)

CARRIED

- (4) PUBLIC INFORMATION MEETING MINUTES - OCTOBER 9, 2012
(LANE NAMING EAST OF MAIN STREET UNIONVILLE) (10.14)
[Minutes](#)

Moved by Councillor Don Hamilton
Seconded by Regional Councillor Jim Jones

- 1) That the Public Information Meeting minutes dated October 9, 2012 regarding Lane Naming East of Main Street Unionville be received; and,
2) That 141, 143, 145 Main Street Unionville retain their addresses; and,
3) That the Lane east of Main Street Unionville not be renamed; and further,
4) That staff report back with options to identify the subject areas for emergency services.

CARRIED

(See following to consider the matter)

Moved by Councillor Don Hamilton
Seconded by Deputy Mayor Jack Heath

That Council consider the item titled "Public Information Meeting Minutes - October 9, 2012 (Lane Naming East of Main Street Unionville)" immediately following the delegation with respect thereto.

CARRIED

(5) CANCELLATION OF NOVEMBER 19, 2012
DEVELOPMENT SERVICES PUBLIC MEETING (16.0)

Council consented to cancel the Development Services Public Meeting scheduled for November 19, 2012, 7:00 pm as the Achievement and Civic Recognition Awards (ACRA) are being held at the same time.

(6) ABEYANCE LIST FOR PENDING ITEMS (16.0)

Council requested an update on the Abeyance List for pending items and staff agreed to provide the list to Members of Council in the near future.

12. BY-LAWS

Council consented to add By-laws 2012-195 and 2012-196.

Moved by Councillor Alex Chiu

Seconded by Councillor Carolina Moretti

That By-laws 2012-189 to 2012-193 and 2012-196 be given three readings and enacted; and,

That the request to withdraw By-law 2012-195 be approved.

CARRIED

Three Readings

BY-LAW 2012-189 WYKLAND ESTATES INC. HOLD REMOVAL BY-LAW , WEST OF CORNELL CENTRE BLVD., SOUTH OF 16TH AVENUE, CORNELL COMMUNITY, 19TM-10002

[By-law](#)

- A by-law to amend By-law 177-96, as amended, to permit residential development.

(Other Business Item No. 1)

CARRIED

BY-LAW 2012-190 CORNELL ROUGE DEVELOPMENT CORP. HOLD REMOVAL BY-LAW, SOUTH OF WHITES HILL AVENUE, WEST OF DONALD COUSENS PARKWAY

By-law

- A by-law to amend By-law 177-96, as amended, to permit residential development

(Other Business Item No. 2)

CARRIED

BY-LAW 2012-191 A BY-LAW TO AMEND SIGN BY-LAW 2002-94 (ADMINISTRATIVE AMENDMENTS)

By-law

CARRIED

BY-LAW 2012-192 ROAD DEDICATION BY-LAW

By-law

- A by-law to dedicate certain lands as part of the highways of the Town of Markham (Block 33, Plan 65M-4063 - Lane B; Block 380, Plan 65M-3759 - Toulouse Court; Block 381, Plan 65M-3759 - Lane BB; Block 382, Plan 65M-3759 - Highbury Court; Block 383, Plan 65M-3759 - Lane CC; Block 384, Plan 65M-3759 - Chauncey Court).

CARRIED

BY-LAW 2012-193 ROAD DEDICATION BY-LAW

By-law

- A by-law to dedicate certain lands as part of the highways of the Town of Markham (Blocks 64 and 65, Plan 65M-4216 - Stoney Creek Drive; Blocks 66 and 69, Plan 65M-4216 - Yen Way; Blocks 67 and 70, Plan 65M-4216 - Williamson Road; Block 72, Plan 65M-4216 - Sedore Street; Block 23, Plan 65M-4215 - Desjardin Drive; Block 24, Plan 65M-4215 - Sedore Street; Block 25, Plan 65M-4215 - Darren Hill Trail; Blocks 169 and 170, Plan 65M-4025 - Darren Hill Trail; Blocks 171 and 172, Plan 65M-4025 - Cornflower Street; Blocks 173 and 174 - Williamson Road; Block 175, Plan 65M-4025 - Stoney Creek Drive; Block 176, Plan 65M-4025 - Arbour Drive; Blocks 177 and 178, Plan 65M-4025 - Swan Park Road).

CARRIED

BY-LAW 2012-195 A BY-LAW TO APPOINT MUNICIPAL LAW ENFORCEMENT OFFICERS FOR THE CITY OF MARKHAM
(Repeals By-law 2002-278)
(Item No. 2, Report No. 49)

WITHDRAWN

BY-LAW 2012-196 A BY-LAW TO PROHIBIT THE DISPLAY, MARKETING FOR SALE, OR SALE OF IMITATION AND REPLICA FIREARMS IN THE CITY OF MARKHAM
[By-law](#)
(IMITATION AND REPLICA FIREARM BY-LAW)
(Item No. 5, Report No. 49)

CARRIED

13. IN-CAMERA ITEMS

Moved by Councillor Carolina Moretti
Seconded by Councillor Howard Shore

That an item be added to the in-camera agenda as No. 3 regarding a proposed acquisition or disposition of property.

CARRIED

(2/3 Vote was requested & obtained)

Moved by Regional Councillor Joe Li
Seconded by Regional Councillor Jim Jones

That, in accordance with Section 239 of the *Municipal Act*, Council resolve into an in-camera session to discuss the following matters: (8:03 p.m.)

- (1) MINUTES OF IN-CAMERA COUNCIL MEETING - OCTOBER 3 2012
- (2) LITIGATION OR POTENTIAL LITIGATION, INCLUDING MATTERS BEFORE ADMINISTRATIVE TRIBUNALS, AFFECTING THE MUNICIPALITY OR LOCAL BOARD
[Section 239 (2) (e)]
- (3) A PROPOSED OR PENDING ACQUISITION OR DISPOSITION OF LAND BY THE MUNICIPALITY OR LOCAL BOARD
[Section 239 (2) (c)]

CARRIED

Moved by Regional Councillor Jim Jones
Seconded by Councillor Logan Kanapathi

That Council rise from in-camera session and report. (8:45 p.m.)

CARRIED

Council reported the following items from in-camera session:

COUNCIL - October 16, 2012

- (1) MINUTES OF IN-CAMERA COUNCIL MEETING - OCTOBER 3 2012 (16.0)
[Section 239 (2) (g)]

Moved by Councillor Don Hamilton
Seconded by Regional Councillor Gord Landon

- 1) That the minutes of the in-camera Council meeting held on October 3, 2012, be confirmed.

CARRIED

DEVELOPMENT SERVICES COMMITTEE- October 9, 2012

- (2) LITIGATION OR POTENTIAL LITIGATION, INCLUDING MATTERS
BEFORE ADMINISTRATIVE TRIBUNALS, AFFECTING THE MUNICIPALITY
OR LOCAL BOARD
(MINOR VARIANCE APPEAL, 18 SIR ISAAC GATE A/143/12) (10.12)
[Section 239 (2) (e)]

Moved by Councillor Colin Campbell
Seconded by Councillor Alan Ho

- 1) That the report titled "Minor Variance Appeal, 18 Sir Isaac Gate, A/143/12" be received; and,
- 2) That Council direct staff not to attend the Ontario Municipal Board (OMB) Hearing regarding the decision of the Committee of Adjustment to approve Minor Variances to permit:
- (a) A minimum flankage yard setback of 8.3 feet, whereas the By-law requires a minimum flankage yard setback of 10 feet;

- (b) A maximum building height of 9.9 metres, whereas the By-law permits a maximum building height of 9.8 metres;
 - (c) A maximum lot coverage of 38 percent, whereas the By-law permits a maximum lot coverage of 35 percent;
 - (d) A maximum net floor area ratio of 49.5 percent, whereas the By-law permits a maximum net floor area ratio of 45 percent;
 - (e) A minimum front yard setback of 20 feet, whereas the By-law requires a minimum front yard setback of 25 feet; and further,
- 3) That Staff be authorized and directed to do all things nessasary to give effect to this resolution.

CARRIED

COUNCIL - October 16, 2012

(3) PROPOSED ACQUISITION OF A PROPERTY (8.6)

Moved by Councillor Valerie Burke

Seconded by Councillor Howard Shore

- 1) That the confidential report dated October 16, 2012 from the Chief Administrative Officer and City Solicitor regarding the acquisition of a property be received; and,
- 2) That staff be authorized to proceed as directed by Council on October 16, 2012.

CARRIED

14. CONFIRMATORY BY-LAW

Moved by Councillor Alex Chiu

Seconded by Councillor Valerie Burke

That By-law 2012-194 be given three readings and enacted.

Three Readings

BY-LAW 2012-194 A BY-LAW TO CONFIRM THE PROCEEDINGS OF THE COUNCIL
MEETING OF OCTOBER 16, 2012.

[By-law](#)

CARRIED

15. ADJOURNMENT

Moved by Councillor Alex Chiu

Seconded by Deputy Mayor Jack Heath

That the Council meeting be adjourned at 8:46 p.m.

CARRIED

MARTHA PETTIT
ACTING CITY CLERK

FRANK SCARPITTI
MAYOR

(Signed)