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Vaughan council held illegal closed-door meeting, investigator says

Council breached the Municipal Act by creating a new deputy city manager position and appointing a current employee to the job

Vaughan Citizen
By Adam Martin-Robbins 

Vaughan council broke the law when it created a new senior staff position, then immediately appointed a person to the position while meeting behind closed doors to discuss another matter, an independent investigator has concluded.

“Organizational restructuring, to add brand new positions to a municipal structure, is not a matter which



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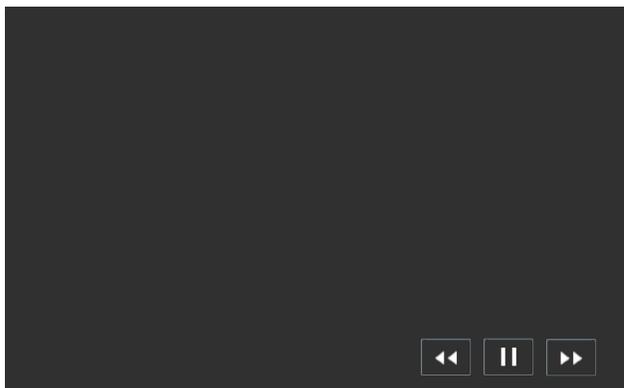
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attracts the exception to the open meetings rules dealing with personal information about an identifiable individual. ... Hence, council was in breach of the Municipal Act when discussing the decision to create this new position using that particular provision of the Act," Nigel Bellchamber, an investigator with Amberley Gavel, the firm contracted to probe complaints about closed-door meetings, wrote in a report presented to council members Wednesday afternoon.



Bellchamber also noted that given "the decision was made with virtually no discussion or debate... (it) can only be reasonably concluded that the decision had been pre-determined before the meeting even began."

Municipal councils are allowed to meet behind closed doors, or in-camera, to discuss certain matters such as legal, personnel and property issues, but "should not make substantive decisions in closed session, as it did here, and only announce them when effected," the report says.

The breach occurred April 13 during a special council meeting during which councillors went in-camera to discuss recruitment of a new city manager.

A council member, not identified in the report, recommended creating a new senior staff position — a deputy city manager responsible for the legal services department and the human resources department — and appointing a current city employee to the post, the report says.

Councillors approved that recommendation after returning to open session from the closed-door meeting. The decision was finalized by city council April 20.

Former city manager Steve Kanellakos, whose position was being filled as he was leaving for a new job in Ottawa, served as acting city clerk during the closed-door session.

Kanellakos, who was interviewed as part of the investigator's probe after a complaint was filed, said he wasn't advised ahead of time that the new position would be discussed and that council's decision "took him totally by surprise".

Bellchamber's report also notes councillors didn't ask Kanellakos to weigh in, even though he'd considered creating a similar position, but decided against it during a corporate restructuring he initiated seven months earlier.

The report also points out that council immediately appointed an existing staff member to the role "without holding a competition for this new position."

"Again, it can only be reasonably concluded that the decision had been pre-determined before the meeting even began," the report re-iterates.

In addition to finding council violated the Municipal Act, Bellchamber concluded council breached its own procedure bylaw in failing to give proper notice about what was being discussed and adding new items to the agenda without unanimous consent, among other things.

But it appears council doesn't intend to rescind the decisions it made.

Councillors, on Wednesday, voted simply to receive the investigator's report despite a call from city hall watcher Carrie Liddy, who filed the complaint, to repeal its decision to create the new position and launch an open and competitive hiring process for the job.

A memo to councillors from City Clerk Jeffrey Abrams, issued before the vote, said the investigator's report can be considered "advice" and "does not invalidate any decision taken in the substantive matter considered by council."

"(The report) may inform the refinement of practices and procedures that support council's meeting practices, but council is not obliged to amend existing procedures," the memo says.

Maple/Kleinburg Councillor Marilyn Iafraite said Wednesday she had raised concerns about what transpired at the closed-door meeting and expressed those in a confidential email to senior staff and members of council on April 15.



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“I received a response on April 18 assuring me that ‘the meeting was properly constituted’ and here we have an investigators report that confirms I had good reason to question the meeting and it’s unfortunate that it was not addressed when I sent my email,” she said. “I truly hope that this does not happen again because our residents deserve better. They deserve full disclosure about decisions that affect them financially and otherwise. Yes, we’ve been told council can make any decision it wants, but it must be done with full transparency.”

lafrate said she’s thankful there was a complaint “because without the investigation council and staff would continue to erroneously believe that the meeting was properly conducted.”

Liddy said she’s “disappointed, but not surprised” by council’s response to the investigator’s findings.

“They set their own rules,” she said. “When it comes to governance, they do whatever they want. They don’t follow the rules and this is another report that proves that.”

Mayor Maurizio Bevilacqua has yet to respond to a request for comment.

Adam Martin-Robbins is a reporter with the Vaughan Citizen. He can be reached at amartinrobbins@yrmg.com . Follow him on [Twitter](#) and YRMG on [Facebook](#)

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