

# **The Corporation of the City of Kawartha Lakes**

## **Council Report**

**Report Number CLK2018-008**

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**Date:** August 14, 2018

**Time:** 2:00 p.m.

**Place:** Victoria Room

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**Ward Community Identifier:** All

**Title:** 2018 Municipal Election - Compliance Audit Committee

**Description:** Appointment of Members and Revised Terms of Reference

**Author and Title:** Cathie Ritchie, City Clerk

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### **Recommendation:**

**That** Report **CLK2018-008, 2018 Municipal Election - Compliance Audit Committee**, be received;

**That the** revised Terms of Reference for the Compliance Audit Committee as attached to Report **CLK2018-008** be approved;

**That** the Clerk and the Director of Corporate Service be authorized to recommend the proposed candidates for appointment to the Compliance Audit Committee; and

**That** a by-law be brought forward prior to October 1<sup>st</sup>, 2018 approving the terms of reference and committee members' appointments.

**Department Head:**\_\_\_\_\_

**Financial/Legal/HR/Other:**\_\_\_\_\_

**Chief Administrative Officer:**\_\_\_\_\_

## **Background:**

Under the Municipal Election Act (MEA) “an elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances”.

Council approved, the formation of, and appointments to, a compliance audit committee in 2006, 2010 and 2014 to respond to any requests relating to those respective municipal elections.

The MEA was amended to regulate Third Party Advertising. Third party advertisers are subject to compliance audits.

## **Elections Act, 1996**

### **Compliance audit of candidates’ campaign finances - Application by elector**

**88.33** (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate’s election campaign finances, even if the candidate has not filed a financial statement under section 88.25. 2016, c. 15, s. 63.

### **Compliance audit committee**

**88.37** (1) A council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66.

### **Composition**

- (2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,
- (a) employees or officers of the municipality or local board;
  - (b) members of the council or local board;
  - (c) any persons who are candidates in the election for which the committee is established; or
  - (d) any persons who are registered third parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66.

### **Eligibility for appointment**

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c. 15, s. 66.

### **Same**

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66.

## **Term of office**

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66.

## **Compliance audit of registered third parties - Application by elector**

**88.35** (1) An elector who is entitled to vote in an election in a municipality and believes on reasonable grounds that a registered third party who is registered in relation to the election in the municipality has contravened a provision of this Act relating to campaign finances may apply for a compliance audit of the campaign finances of the registered third party in relation to third party advertisements, even if the registered third party has not filed a financial statement under section 88.29. 2016, c. 15, s. 65.

The current Compliance Audit Committee's term has not concluded however, at present only two standing members remain, Greer Thornbury and Tony Sutcliffe. The Act requires a minimum of three members. It is intended that the two members will reapply for the next term of Council.

## **Rationale:**

The MEA requires a council or local board, before October 1st of an election year, to establish a committee for the purpose of implementing those sections of the MEA that relate to election campaign compliance audits.

This report addresses the legislative requirements for election campaign compliance audit purposes for the 2018 municipal election.

The compliance audit committee is given the authority under the MEA to determine, first, if a compliance audit is required. Once a decision to proceed is made, the committee would be authorized to appoint an auditor, to possibly commence legal proceedings if there is an apparent contravention of the MEA and to seek a recovery of costs for the proceedings. The costs associated with this process are the responsibility of the municipality unless ordered otherwise by the courts.

It is important that the committee members:

- be familiar with financial statements,
- be familiar with the municipal election process
- not be affiliated with any candidate and are therefore free from political influence
- be impartial.

In 2010, the City received a request from the Trillium Lakelands District School Board (TLDSB) to contract with the municipality to have the City Compliance

Audit Committee process any compliance audit requests for public school board trustees. The City has provided coverage to the TLDSB in the last 3 elections. The School Board would cover the expenses for School Board audit purposes.

### **Financial/Operation Impacts:**

If no application for a compliance audit are received, there would be no cost. However, should there be an application, the funds would be expended through the election budget and would vary depending on the work required by the committee and whether the application proceeded through to the courts.

### **Relationship of Recommendation(s) To The 2016-2019 Strategic Plan:**

Municipal Service Excellence.

### **Conclusion:**

As a result of amendments to the Municipal Elections Act, the Compliance Audit Committee's mandate requires revisions to their Terms of Reference to include Third Party Advertising.

Before October 1, 2018 a Compliance Audit Committee must be established to be in compliance with the MEA.

To prevent falling below the 3 member minimum, it is recommended that the Terms of Reference provides for a minimum of 3 to a maximum of 5 members.

As the majority of Council are now certified candidates in the 2018 Municipal Election, it is recommended that the City Clerk and Director of Corporate Services be authorized to recommend the appointees on the Municipal Election Compliance Audit Committee to be approved by by-law for the 2018 Municipal Election and the next term ending 2022.

### **Attachments:**

Appendix A – Election Compliance Audit Terms of Reference



Municipal Election  
Compliance Audit Cor

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**Department Head:** Cathie Ritchie