



PORT COLBORNE

Subject: Compliance Audit Committee-2022 Municipal Elections

To: Council

From: Development and Legislative Services Department

Report Number: 2022-209

Meeting Date: September 13, 2022

Recommendation:

That Development and Legislative Services - Clerks Division Report 2022-209 be received; and

That the Acting City Clerk be delegated authority to appoint members to the 2022 Compliance Audit Committee.

Purpose:

This report seeks delegated authority to the Acting City Clerk to appoint members to the Committee in accordance with the *Municipal Elections Act*, 1996 (the "Act").

Background:

Section 88.37 of the Act requires municipalities and local boards to establish a Compliance Audit Committee before October 1 of an election year. A qualified elector who believes on reasonable grounds that a candidate or registered third party advertiser has contravened the campaign finance provisions of the Act may apply to the compliance audit committee for a compliance audit.

Since 2010, the Region, the Local Area Municipalities (LAMS) and the Niagara Public and Catholic School Boards (the "Joint Participants"), have continued with the joint Niagara Compliance Audit Committee (the "Committee") under identical terms of reference.

In 2018, Council delegated authority to the City Clerk to appoint members of the Compliance Audit Committee and to make legislative and/or administrative changes to the Terms of Reference. Staff recommend continued participation in the joint Committee.

Discussion:

The LAMS group have met and approved the 2022 Terms of Reference for the Compliance Audit Committee; the updated Terms of Reference are attached to this report for reference. As per Section 5(2) of the Terms of Reference, the appointment of the members to the Committee shall be approved by each Council or delegated authority prior to October 1st in each election year. Accordingly, staff are seeking delegated authority to appoint members to the Committee. It is now more common for Council to delegate the appointment authority to the Clerks of the Committee in order to remove any perception of bias and to keep the statutory committee at arms-length, given Members of Council who seek re-election for the 2022-2026 term may be the subject of a compliance audit request.

The Committee shall be composed of a minimum of three (3) and a maximum of seven (7) members with preferred membership drawn from the following groups:

- accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
- legal profession with experience in municipal law, municipal election law or administrative law;
- professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals, and
- other individuals with knowledge of the campaign finance rules of the Act.

The Role of the Compliance Audit Committee will include:

- Receive and determine whether or not to grant or reject application.
- Appoint auditors, when necessary.
- Receive compliance audit report from auditor and make decision with regard to the report. If the report indicates an apparent contravention of the Act, the Committee shall determine whether or not legal proceedings should be commenced against the candidate or registered third party.
- Consider reports submitted by the Clerk where it appears a contributor exceeded the contribution limit and make decisions with regard to such reports.

The Joint Clerk's role is responsible to train committee members, update the Terms of Reference, establish procedures, ensure legal representation is available to the Committee and review reports on each contribution that may have exceeded contribution limits.

Financial Implications:

Members of the Committee will receive a \$350 honorarium for mileage and attendance at training. This cost will be shared equally amongst the Joint Participants.

In addition, members will receive an honorarium of \$250 per meeting, plus mileage at the rate of the responding municipality.

The City would be responsible to fund and pay all costs associated with the Committee, including the retention of an auditor and any cost incurred as a result of the decision of the Committee.

Any costs related to the Compliance Audit Committee would be funded from the approved Election budget.

Public Engagement:

On August 17, 2022, the advertisement for the Joint Compliance Audit Committee was posted on the Niagara Region website, City's website, and shared on the City's social media sites.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Governance: Communications, Engagement, and Decision-Making
-

Conclusion:

Staff recommend that Council delegate authority to the Acting City Clerk to appoint members to the Compliance Audit Committee in accordance with the Act.

Appendices:

- a. Terms of Reference for Niagara Compliance Audit Committee

Respectfully submitted,

Nicole Rubli
Acting City Clerk
905-835-2900 ext. 106
nicole.rubli@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.