

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 6, 2014

Item 11, Report No. 18, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on May 6, 2014.

11 JOINT COMPLIANCE AUDIT COMMITTEE FOR THE 2014-2018 TERM OF COUNCIL

The Committee of the Whole recommends approval of the recommendation contained in the following report of the City Clerk/Returning Officer, dated April 29, 2014:

Recommendation

The City Clerk/Returning Officer in consultation with the Commissioner of Legal & Administrative Services/City Solicitor recommends:

1. That Council endorse participating with the other municipalities in York Region (and potentially the school boards) in a Joint Compliance Audit Committee roster for the 2014-2018 term of Council;
2. That the Terms of Reference from the 2010 York Region Joint Compliance Audit Committee, as modified and attached as Attachment '1', be adopted for any 2014-2018 City of Vaughan Compliance Audit Committee that may be established;
3. That the City Clerk, or his designate, be directed to work with the other York Region municipalities to recruit applicants for the purpose of developing a roster from which the Vaughan Compliance Audit Committee(s) will be appointed;
4. That once a Joint Compliance Audit Committee roster is approved by Council, the City Clerk be delegated the authority to establish, in response to any compliance audit applications received, panels of three persons from the roster of the Joint Compliance Audit Committee to serve as the City of Vaughan Compliance Audit Committee; and
5. That any necessary by-laws be introduced.

Contribution to Sustainability

It is the responsibility of a compliance audit committee to consider compliance audit applications relating to the campaign finances of registered candidates who participated in the 2014 general municipal election or in any by-election that might occur during the 2014-2018 term of Council. The Committee plays an important role in supporting a positive public perception of the fair application of rules respecting election contributions and expenses.

Economic Impact

It is proposed that members of the Joint Compliance Audit Committee roster be paid a retainer of \$400 (the cost of which is to be split amongst the participating municipalities) and a per diem of \$350 plus mileage funded from the Election Reserve for meetings attended. The funding source for any audits or prosecutions that might be conducted will be addressed during 2015 budget deliberations.

Communications Plan

A call for candidates will be distributed to professional bodies and associations and through joint advertising with the other participating York Region municipalities.

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Purpose

The purpose of this report is to facilitate the recruitment of a Joint Compliance Audit Committee with other interested York Region municipalities and school boards, to support the City's obligation to establish a compliance audit committee for the 2014 to 2018 term of Council.

Background - Analysis and Options

All municipalities and school boards in Ontario are required by section 81.1 of the *Municipal Elections Act, 1996* (the 'MEA') to establish a compliance audit committee prior to October 1 in an election year. For the purposes of the 2010 – 2014 term of Council, the City of Vaughan established a three-member committee [Item 28, Report No. 35, of the Committee of the Whole, adopted without amendment by Council on June 30, 2009] which heard a total of three compliance audit applications arising out of the 2010 municipal election. For 2014, Council is again required to establish a compliance audit committee to consider compliance audit applications with regard to candidates' election campaign finances. The committee once appointed will have the same term as the term of Council.

Taking into consideration the steep competition for qualified applicants, establishing a Joint Compliance Audit Committee roster increases the City's ability to attract the broadest spectrum of qualified applicants and to administer the compliance audit process in a cost effective manner. Staff are therefore proposing that a Joint Compliance Audit Committee be established with the other municipalities (and possibly the school boards) in York Region who are interested in the approach. At present all municipalities in York Region have either authorized or are in the process of authorizing the establishment of a joint committee, or minimally propose to use a joint approach for recruitment.

Compliance Audit Process

The *MEA* requires the appointment of a compliance audit committee prior to October 1st, 2014. The mandate of the compliance audit committee is to:

- a) Consider requests for a compliance audits and determine whether the requests should be granted or rejected;
- b) If a request is granted, appoint an auditor;
- c) Review the auditor's report and determine whether legal action should be taken; and
- d) Advise Council if the auditor's report indicates that there were no apparent contraventions and if there appears that there were no reasonable grounds for the application. (With the advice from the Committee, Council would then decide whether or not to recover the auditor's costs from the applicant.)

Any elector who is entitled to vote in an election and believes, on reasonable grounds, that a candidate has contravened a provision of the *MEA* pertaining to election campaign finances, may apply in writing to the Clerk (or, in the case of a school board, to the Secretary of the Board) for a compliance audit of the candidate's election campaign finances. The application must be made within 90 days of the financial statement filing date (by June 25, 2015). The Clerk then has 10 days to forward the written request to the compliance audit committee and copy Members of Council. Within 30 days of receiving the request, the committee must consider it and decide whether it should be granted or rejected. The decision of the committee may be appealed to the Ontario Court of Justice within 15 days of the decision.

If the committee decides to grant the request for a compliance audit, it appoints an outside auditor to conduct the audit. The auditor then prepares a report which is submitted to the candidate, Council, the Clerk with whom the candidate filed his or her nomination, and the applicant. Within

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10 days of receiving the report, the Clerk of the municipality must forward it to the Compliance Audit Committee. Within 30 days of receiving the auditor's report, the committee must consider it.

The municipality (or the school board) is responsible for paying the auditor's costs of performing the audit and all costs in relation to the committee's operation and activities.

If the report concludes that the candidate appears to have contravened a provision of the *MEA* relating to election campaign finances, the committee must determine whether to commence legal proceedings against the candidate. If the report concludes that the candidate did not contravene the *MEA*, the committee must make a finding as to whether there were reasonable grounds for the request for the audit. If the committee determines that there were no reasonable grounds, then the Council (or the school board) is entitled to recover the auditor's costs from the applicant.

Establishment of a Roster for the Joint Compliance Audit Committee

The Clerks from the participating municipalities would be responsible for reviewing applications from candidates and making recommendations as to a list of preferred candidates for consideration by the various Councils.

The following selection criteria will be utilized in assessing candidates for the Committee roster:

- a) Demonstrated knowledge and understanding of municipal election campaign financing rules;
- b) Proven analytical and decision-making skills;
- c) Experience working on committees, task forces or similar settings;
- d) Demonstrated knowledge of quasi-judicial proceedings;
- e) Availability and willingness to attend meetings;
- f) Excellent oral and written communication skills; and
- g) Avoidance of Potential Conflicts of Interest.

Staff will solicit interested candidates from the professional bodies governing or representing auditors, accountants, lawyers, engineers and such other professions that impose professional standards on their members, breach of which can lead to discipline. Anyone who has participated as candidates in the municipal election for a participating municipality, or who has conducted audits or provided financial advice in respect of such campaigns, will be disqualified.

Any costs associated with advertising and selection for the Joint Committee will be divided by the participating municipalities.

In addition, the participating municipalities will appoint a total of three alternates. Should any of the Members of the Joint Compliance Audit Committee roster resign or otherwise be unable to perform their duties, the alternates will be called upon to assume the role.

Establishment of Panels to serve as the City of Vaughan Compliance Audit Committee

A compliance audit committee must consist of between 3 and 7 members and cannot include any employees or officers of the municipality (or the school board), or any Members of Council, or any candidate in the election for which the Committee is established. The term of office is the same as that of Council. The Clerk will be authorized to constitute a panel from the approved roster once an application is received, with the panel serving as the compliance audit committee for that municipality for that purpose. The Clerk in constituting the panel will take into account the availability of members as well as the desirability of continuity of panel membership.

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Remuneration

The payment of a per diem rate of \$350 (plus mileage) will be the responsibility of the municipality requesting the services of the Joint Compliance Audit Committee. The Committee Members will also be provided a retainer fee of \$400 to compensate them for ongoing review of background material. The cost of paying the retainer fee will also be divided between the participating municipalities.

Relationship to Vaughan Vision 2020/Strategic Plan

This report supports the objectives of Vaughan Vision 2020, particularly with respect to Ensure a High Performing Organization.

Regional Implications

N/A

Conclusion

The establishment of a Joint Compliance Audit Committee roster with other participating municipalities (and possibly school boards) in York Region supports Council's statutory obligation to establish a compliance audit committee for the 2014-2018 term of Council.

In monitoring compliance audit committee activity across the Province after the 2010 election, there appears to have been a lack of consistency in the thresholds used to decide when an audit should be ordered, and once ordered, the severity of apparent contraventions deemed appropriate to commence prosecution. The establishment of a joint committee, at least throughout York Region, will help to ensure that candidates throughout the Region are treated consistently and equitably. A joint approach will also reduce recruitment and training costs, and lower time commitments for recruitment, interviewing and training.

Attachments

Attachment 1 – Terms of Reference

Report Prepared by:

Jeffrey A. Abrams, City Clerk/Returning Officer

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)