

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MARCH 20, 2018

Item 6, Report No. 10, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on March 20, 2018.

6 JOINT COMPLIANCE AUDIT COMMITTEE FOR THE 2018-2022 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 March 6, 2018:

Purpose

To facilitate the recruitment of a Joint Compliance Audit Committee with other interested York Region municipalities, to support the City's obligations under the *Municipal Elections Act, 1996*, to establish a compliance audit committee for the 2018-2022 Term of Council.

Recommendations

1. That Council approve participating in a Joint Compliance Audit Committee with the other municipalities in York Region and the establishment of a roster of committee members for the 2018-2022 Term of Council;
2. That the Terms of Reference from the 2014 York Region Joint Compliance Audit Committee, as modified and attached as Attachment '1', be adopted for any 2018-2022 City of Vaughan Compliance Audit Committee that may be established;
3. That the City Clerk be authorized to present any by-law required to establish a compliance audit committee for the 2018-2022 Term of Council, and any by-law required to appoint members of the compliance audit committee directly to Council for enactment; and
4. That once the Joint Compliance Audit Committee roster is appointed 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.

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Report Highlights

- The Compliance Audit Committee is a statutory obligation under the *Municipal Election Act, 1996*.
- Staff propose continuing the successful operation of a joint committee with York Region municipalities.
- The Joint Compliance Audit Committee reduces difficulties recruiting experienced and qualified members, shares the burden of cost for recruitment and training, and ensures consistent procedure and process for candidates across the Region.

Background

All municipalities and school boards in Ontario are required by section 88.37 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 2014-2018 Term of Council, the City of Vaughan established a Joint Compliance Audit Committee with the Towns of East Gwillimbury, Georgina, Richmond Hill, Newmarket, Aurora, Whitchurch-Stouffville and the Township of King. The joint committee successfully recruited a roster of qualified individuals to serve the term, with the financial costs associated with the recruitment and training of the committee shared by the participating municipalities.

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 range of qualified applicants and to administer the compliance audit process in a cost-effective manner. Staff are therefore working to once again establish a Joint Compliance Audit Committee with the other municipalities in York Region who are interested in the approach.

Previous Reports/Authority

[Joint Compliance Audit Committee for the 2014-2018 Term of Council](#)

[Municipal Elections Act, 1996](#)

Analysis and Options

The *Municipal Elections Act* lays out the process for conducting a compliance audit and the City’s obligation to appoint a Joint Compliance Committee in an election year, to serve through the subsequent Term of Council.

The MEA requires the appointment of a compliance audit committee prior to October 1, 2018. The mandate of the compliance audit committee is to:

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- a) Within 30 days of receipt of an application requesting a compliance audit, the Committee shall consider the compliance audit application and decide whether it should be granted or rejected;
- b) If the application is granted, the Committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances;
- c) The Committee will review the auditor's report within 30 days of receipt and decide whether legal proceedings should be commenced;
- d) If the auditor's report indicates that there were no apparent contraventions and if there appears there were no reasonable grounds for the application, the Committee shall advise Council accordingly; and
- e) Within 30 days after receipt of a report from any participating municipality's Clerk of any apparent over-contributions to candidates or third-parties ("report of the Clerk"), the Committee shall consider the Clerk's report and decide whether legal proceedings should be commenced.

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 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 March 29, 2019). 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 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 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 was reasonable grounds for the request for the audit. If the committee determines that there were no reasonable grounds, then the Council is entitled to recover the auditor's costs from the applicant.

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Legislative amendments have introduced new reporting requirements for the Clerk in respect to the compliance audit process

Legislative changes to the MEA since the 2014 Municipal Election have established new statutory requirements for the Clerk to report on any contributor to a candidate or registered third party which has exceeded any of the contribution limits set out in the Act. The Clerk shall review all financial statements submitted by candidates and registered third parties within 30 days of the filing date or supplementary filing date, and prepare a report identifying such contributors who appear to have exceeded any contribution limits under the Act. The Clerk shall prepare a separate report for each contributor whose contributions to a candidate (or candidates), or a registered third party (or registered third parties) appear to have contravened any of the contribution limits.

Once completed, any report prepared by the Clerk shall be forwarded to the compliance audit committee who upon receiving the report(s), will have 30 days to consider it and decide whether to commence legal proceedings against any contributor for an apparent contravention.

Following the successful operation of the Joint Compliance Audit Committee for the 2014-2018 Term of Council, York Region municipalities are partnering to establish a joint committee for the 2018-2022 Term of Council.

The Clerks from the participating municipalities are 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 has been developed to identify and assess 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; and
- f) Excellent oral and written communication skills.

Staff have solicited 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

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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.

As was the case during the 2014-2018 Term of Council, the Clerk shall organize a panel of members from the roster 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 any Members of Council, or any candidate or registered third party 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 consideration the availability of members as well as the desirability of continuity of panel membership.

Financial 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 all participating municipalities), \$350 (inclusive of mileage) for attendance at a mandatory training session, and a per diem of \$350 plus mileage at a rate of \$0.54 per kilometer, funded from the Election Reserve for meetings attended. The funding source for any audits or prosecutions that might be conducted will be addressed during 2019 budget deliberations.

Broader Regional Impacts/Considerations

There is no regional impact associated with this report. The Regional Municipality of York has indicated that it will be participating in the Joint Compliance Audit Committee alongside constituent municipalities for the 2018-2022 Term of Council.

Conclusion

The establishment of a Joint Compliance Audit Committee roster with other participating municipalities in York Region supports Council's statutory obligation to establish a compliance audit committee for the 2018-2022 Term of Council, and follows the successful establishment and operation of a joint committee during the 2014-2018 Term

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of Council. With the addition of the Regional Municipality of York and the City of Markham, the joint committee established for the coming Term of Council will encompass all York Region municipalities.

Establishing a joint committee with York Region municipalities will help to ensure that candidates throughout the Region are treated consistently and equitably, and that new reporting obligations by municipal Clerks are carried out in a consistent manner across the Region. A joint approach also reduces recruitment and training costs, and lower time commitments for recruitment, interviewing and training potential appointees.

For more information, please contact: Evan Read, Manager, Elections and Special Projects; Office of the City Clerk, extension 8241.

Attachments

1. Terms of Reference – York Region Joint Compliance Audit Committee, Office of the City Clerk, December 11, 2017

Prepared by

Evan Read, Manager, Elections and Special Projects, extension 8241

(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.)