



Staff Report

Administration

Report To: Special Committee of the Whole
Meeting Date: February 5, 2018
Report Number: FAF.18.10
Subject: Use of Corporate Resources for Election Purposes Policy
Prepared by: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report FAF.18.10, entitled “Use of Corporate Resources for Election Purposes Policy”;

AND THAT Council enact the Use of Corporate Resources for Election Purposes Policy POL.COR.18.XX, as presented and attached to Staff Report FAF.18.10;

AND THAT Council repeal the previous “Use of Corporate Resources for Election Purposes Policy, A.POL.01”.

B. Overview

The purpose of this report is to obtain Council approval of the Use of Corporate Resources for Election Purposes Policy. This Policy serves as a guide for Members of Council, Candidates, Registered Third Parties and Staff on the appropriate use of corporate resources for election purposes.

C. Background

The Municipal Elections Act, 1996 (“Act”) was reviewed following the 2014 Municipal Election and a number of changes have been subsequently enacted. [Bill 181, the Municipal Elections Modernization Act](#) (“Bill 181”) received Royal Assent on June 9, 2016. Section 88.18 of the Act provides that before May 1 in the year of a regular election, municipalities and local boards shall establish rules and procedures with respect to the use of municipal or board resources, as the case may be, during the election campaign period.

D. Analysis

With the enactment of the attached Policy, the former Policy, “Use of Corporate Resources for Election Purposes, A.POL.01” will be repealed. The Use of Corporate Resources Policy for Election Purposes will ensure that all candidates, current members of Council, and registered third parties will receive the same privileges.

E. The Blue Mountains Strategic Plan

Goal #4: Promote a Culture of Organizational and Operational Excellence
Objective #5: Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

F. Environmental Impacts

None

G. Financial Impact

None.

H. In consultation with

1. Senior Management Team
2. Grey County Clerks

I. Attached

1. Attachment #1 – Draft Use of Corporate Resources for Election Purposes Policy, POL.COR.18.XX
2. Attachment #2 Use of Corporate Resources for Election Purposes Policy, A.POL.01 (to be repealed)

Respectfully Submitted,

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Town Clerk

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Policy

POL.COR.18.XX

Use of Corporate Resources for Election Purposes

Policy Type:	Corporate Policy (Approved by Council)
Date Approved:	
Department:	Clerk's Department
Staff Report:	FAF.18.10 "Use of Corporate Resources for Election Purposes Policy"
By-Law No.:	n/a

Policy Statement

The Corporation of the Town of The Blue Mountains and its local boards and committees are committed to ensuring accountable and transparent election practices relating to the use of corporate resources.

Purpose

The purpose of this policy is to provide a consistent approach and direction regarding the use of Corporate Resources during the election campaign period in accordance with the *Municipal Elections Act, 1996*.

This policy replaces the previous "Use of Corporate Resources for Election Purposes Policy, A.POL.01". This policy shall become effective immediately upon approval by Council of the Town of The Blue Mountains.

Application

This Policy applies to all Members of Council, Candidates, Registered Third Parties in a municipal election, and Staff during a campaign period.

This Policy is intended to:

- i) ensure compliance with the Municipal Elections Act, 1996, with respect to the role of the Town contribution to a municipal and trustee election campaign;
- ii) ensure Candidates and Registered Third Parties are treated fairly and consistently within the municipality;
- iii) ensure the integrity of the election process is maintained at all times;
- iv) establish the appropriate use of resources during an election period, in order to:
 - a. protect the interests of Members of Council, Candidates, Registered Third Parties, Staff and the Corporation; and
 - b. ensure accountable and transparent election practices.

Definitions

“Act” means the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, as amended.

“Campaign Period” for candidates, the date on which the Nomination Form is filed until December 31 in the year of an election (unless a request for extension of campaign period has been filed)

For Registered Third Parties, “Campaign Period” is the date on which the Notice of Registration as a third party advertiser is filed until December 31 in the year of an election (unless a request for extension or campaign period has been filed)

“Candidate” means a person who has filed a Nomination Form for an office pursuant to section 33 of the Act, and includes a person who has filed a nomination for election to a school board pursuant to the *Education Act, R.S.O. 1990*, c. E.2, as amended.

“Clerk” means the Clerk of the Town or their designate.

“Corporate Resources” means real property, goods and/or services owned, controlled, leased, acquired, or operated by the Town including but not limited to: facilities, parks, materials, equipment, monetary funds, technology, Town IT system and resources, databases, social media, intellectual property, and supplies.

“Election Day” for a regular election is the fourth Monday in October in the year of the election, as prescribed by the *Municipal Elections Act, 1996*.

“Members of Council” means the Council of the Town of The Blue Mountains.

“Member” means a Member of the Council of the Town of The Blue Mountains.

“Nomination Day” for a regular election is the fourth Friday in July in the year of the election, as prescribed by the *Municipal Elections Act, 1996*.

“Policy” means this Use of Corporate Resources for Election Purposes Policy, **POL.COR.18.XX**

“Registered Third Party” means an individual, corporation or trade union that has filed a Notice of Registration as a third party advertiser in the municipal election.

“Staff” means all full-time, part-time and contract persons hired by the Town.

“Town” means The Corporation of the Town of The Blue Mountains.

“Voting Day” means, in a regular election, is the fourth Monday in October in the year of the election –or– in the case of a by-election, the 45th day after Nomination Day, as noted in section 5 and subsection 65(4) of the *Municipal Elections Act, 1996*.

Policy

1. In accordance with the provisions of the Municipal Elections Act, 1996, as amended, Members of Council, Candidates, and/or Registered Third Parties in a Campaign Period are not permitted to:
 - a) Use equipment, supplies, services, Staff, or other resources of the Town for any campaign or campaign related activities;
 - b) Use Town funds to acquire any resources for any campaign or campaign related activities, including order of stationary and office supplies;
 - c) Use Town facilities or property for campaign events, unless the facility or property is rented in accordance with Town agreements and the appropriate rates are paid by the Candidate or Registered Third Party. Notwithstanding the foregoing, no facility/property shall be rented or used for any municipal election-related purpose by members of Council, Candidates, Registered Third Parties, or the public during any day that voting is taking place on the property, including the set-up, hosting or take-down activities;
 - d) Benefit from the use of any corporate pricing established under the Town's Purchasing Policy;
 - e) Use Town funds to print or distribute any material that makes reference to, or contains the names or photographs, or identifies Candidates or Registered Third Parties.
 - f) Use the Town logo, crest, or corporate program identifiers on any election campaign related material, either printed or on a campaign website. This includes any Town municipal election logo and any related identifiers.
 - g) Use any Council or Councillor budgets for election-related purposes or to advertise, promote or support any Candidate, Registered Third Party or any position related to any questions which may be authorized to be placed on the ballot.
 - h) Use corporate Information Technology (IT) assets, infrastructure, or data (e.g. computers, wireless devices, portals, corporate email, web pages, blogs, telephone) to communicate election related messages

Note: The Clerk will include the contact information for Candidates and Registered Third Parties' on the Town's website, on the "Election" page of the Town website during the Campaign Period.

Use of Corporate Resources for Election Purposes

2. The following services will be discontinued for Members of Council who are Candidates as of the end of Nomination Day:
 - a) all forms of advertising, including in Town publications (i.e. paper or web-based);
 - b) all printing services, including printing, photocopying and distribution of publications, such as newsletters, with the exception of communications specifically related to an authorized or scheduled Town event (i.e. Public Meeting);
 - c) the ordering of office furniture and furnishings, except those of an emergency nature, as well as no movement of furniture and furnishings; and,
 - d) the ordering of stationary and business cards.
3. The budgets for Members of Council for the period of January 1 to Election Day in a municipal election year be restricted to 11/12ths of the approved annual budget amount with the provision that subsequent to Election Day:
 - a) new Members of Council be allocated a budget equal to 1/12th of the approved budget for the month of December; and
 - b) re-elected Members of Council have available to them the balance of the funds remaining as of Election Day;
4. Candidate, Registered Third Party and Staff Conduct
 - a) A Member of Council attending an event as a representative of Town Council is not permitted to campaign while conducting Town business. A Member of Council may speak at an event as a representative of Town Council, but is not permitted to use the event as an opportunity to campaign;
 - b) Candidates or Registered Third Parties are not permitted to engage in campaign activities directed at Town Staff while those Staff are at their workplace or engaged in work for the Town.
 - c) Town Staff shall not perform any work in support of a Candidate of Registered Third Party during hours in which the Town Staff is receiving any compensation from the Town, except during scheduled time off (i.e. vacation, leave of absence without pay, lieu time). Town Staff shall not post or distribute campaign material on behalf of a Candidate or Registered Third Party at Town facilities or on Town property.

Exclusions

It is recognized that Members of Council are holders of their office until the end of the Council term. Nothing in this Policy shall preclude a Member of Council from performing their job as a Councillor, nor inhibit them from representing the interests of the constituents who elected them.

References and Related Policies

1. *Municipal Elections Act, 1996*
2. Council Code of Conduct for Members of Council Policy, POL.COR.07.07
3. Progressive Discipline Policy, POL.COR.13.24

Consequences of Non-Compliance

The Town Clerk is authorized and directed to take the necessary action to give effect to this policy.

Review Cycle

This policy will be reviewed by the Town Clerk following each Municipal Election, and will be updated in accordance with legislative requirements.

Policy A.POL.01 Use of Corporate Resources for Election Purposes



Approved by: Council
Approval Date: May 24, 2006
Effective Date: May 25, 2006
Revision Date: None

Policy Statement

A policy on the use of Corporate Resources for Election Purposes.

Purpose

The purpose of this policy is to clarify that members of Council are required to follow the provisions of the *Municipal Elections Act, 1996* and that:

- No member shall use the facilities, equipment, supplies, services, staff or other resources of the municipality (including Town-funded newsletters and Councillor budgets) for any election campaign or campaign related activities.
- No member shall undertake campaign related activities on municipal property during regular working hours.
- No member shall use the services of persons during hours in which those persons receive any compensation from the municipality or are representing the municipality, including volunteers and appointees.

Application

This policy is applicable to all members of municipal Council.

Specific Policy

- (1) That, in accordance with the provisions of the *Municipal Elections Act, 1996*:
 - a. Corporate resources and funding may not be used for any election related purposes;
 - b. Staff may not canvass or actively work in support of a municipal candidate or party during normal working hours unless they are on a leave of absence without pay, lieu time, float day or vacation leave;

- c. Members of Council may not use their constituency office, or any municipally provided facilities for any election related purposes, which includes displaying of any campaign related signs in the window or on the premises, as well as displaying any election related material in the office;
- d. The budgets for Members of Council for the period January 1 to Election Day in a municipal election year be restricted to 11/12ths of the approved annual budget amount with the provision that subsequent to election day:
 - i. New members of Council be allocated a budget equal to 1/12th of the approved budget for the month of December; and
 - ii. Re-elected members of Council have available to them the balance of the funds remaining as of Election Day;
- e. The following be discontinued for members of Council from the day prior to Nomination Day in a municipal election year to Election Day:
 - i. all forms of advertising, including in municipal publications;
 - ii. all printing, high speed photocopying and distribution, including printing and general distribution of newsletters unless so directed and approved by Council;
 - iii. the ordering of office furniture and furnishings, except those of an emergency nature, as well as no movement of furniture and furnishings; and,
 - iv. the ordering of stationery and business cards.
- f. Members of Council may not:
 - i. print or distribute any material paid by municipal funds that illustrates that a member of Council or any other individual is registered in any election or where they will be running for office;
 - ii. profile (name or photograph), or make reference to, in any material paid by municipal funds, any individual who is registered as a candidate in any election;
 - iii. print or distribute any material using municipal funds that makes reference to, or contains the names or photographs, or identifies registered candidates for municipal elections; and that Minutes of municipal Council and Committee meetings be exempt from this policy; and,

- iv. enter into joint ventures using municipal funds outside their existing wards from September 25 to Election Day, in the year of a municipal election, unless specifically approved by Council. At all other times a signed agreement between Ward Councillors is required;
- g. Members of Council are responsible to ensure that the content of any communications material, including printed material such as newsletters, advertising, etc. funded by the municipality for the operation of each Councillor's Office, is not directly election related;
- h. Web sites or domain names that are funded by the municipality may not include any election related campaign material;
- i. Members of Council may not use the municipality's voice mail system to record election related messages;
- j. The above recommendations also apply to an acclaimed Member or a Member not seeking re-election.

Consequences of Non-Compliance

The Town Clerk is authorized and directed to take the necessary action to give effect to this policy.

Exclusions

Nothing in this policy shall preclude a Member of Council from performing their job as a Councillor, nor inhibit them from representing the interests of the constituents who elected them.

Policy Authority

This policy shall become effective immediately upon approval by municipal Council.

References and Related Policies

It is necessary to establish guidelines on the appropriate use of corporate resources during an election period to protect the interests of both the members of Council and the Corporation. The *Municipal Elections Act, 1996* prohibits a municipality from making a contribution to a candidate. The Act also prohibits a candidate, or someone acting on the candidate's behalf, from accepting a contribution from a person who is not entitled to make a contribution.

As a contribution may take the form of money, goods or services, any use by a member of Council of the Corporation's resources for his or her election campaign would be viewed as a contribution by the municipality to the Member, which is a violation of the Act.

The attached Appendix "A" defines contributions and rules applying thereto as contained in the *Municipal Elections Act, 1996*.

For clarification, the attached Appendix "B" details the role of the Head of Council as contained in the *Municipal Act, 2001*..

Review Cycle

This policy will be reviewed by the Returning Officer following each Municipal Election.

APPENDIX "A"

Municipal Elections Act, 1996

S.O. 1996, CHAPTER 32

Election Campaign Finances

Contributions

66. (1) For the purposes of this Act, money, goods and services given to and accepted by or on behalf of a person for his or her election campaign are contributions. 1996, c. 32, Sched., s. 66 (1).

Additional rules

(2) Without restricting the generality of subsection (1), the following rules apply in determining whether an amount is a contribution:

1. The following amounts are contributions:
 - i. an amount charged for admission to a fund-raising function,
 - ii. if goods and services are sold at a fund-raising function for more than their market value, the difference between the amount paid and market value,
 - iii. if goods and services used in a person's election campaign are purchased for less than their market value, the difference between the amount paid and market value, and
 - iv. any unpaid but guaranteed balance in respect of a loan under section 75.
2. The following amounts are not contributions:
 - i. the value of services provided by voluntary unpaid labour,
 - ii. the value of services provided voluntarily, under the person's direction, by an employee whose compensation from all sources for providing them does not exceed the compensation the employee would normally receive for the period the services are provided,
 - iii. an amount of \$10 or less that is donated at a fund-raising function,
 - iv. the value of political advertising provided without charge on a broadcasting undertaking as defined in section 2 of the *Broadcasting Act* (Canada), if,
 - A. it is provided in accordance with that Act and the regulations and guidelines made under it, and
 - B. it is provided equally to all candidates for office on the particular council or local board,
 - v. the amount of a loan under section 75. 1996, c. 32, Sched., s. 66 (2).

Value of goods and services

(3) The value of goods and services provided as a contribution is,

(a) if the contributor is in the business of supplying these goods and services, the lowest amount the contributor charges the general public in the same market area for similar goods and services provided at or about the same time;

(b) if the contributor is not in the business of supplying these goods and services, the lowest amount a business providing similar goods or services charges the general public for them in the same market area at or about the same time. 1996, c. 32, Sched., s. 66 (3).

Expenses

67. (1) For the purposes of this Act, costs incurred for goods or services by or on behalf of a person wholly or partly for use in his or her election campaign are expenses. 1996, c. 32, Sched., s. 67 (1).

Additional rules

(2) Without restricting the generality of subsection (1), the following amounts are expenses:

1. The replacement value of goods retained by the person from any previous election and used in the current election.
2. The value of contributions of goods and services.
3. Audit and accounting fees.
4. Interest on loans under section 75.
5. The cost of holding fund-raising functions.
6. The cost of holding parties and making other expressions of appreciation after the close of voting.
7. Expenses relating to a recount.
8. Expenses relating to proceedings under section 83 (controverted elections).
9. The nomination filing fee referred to in section 33. 1996, c. 32, Sched., s. 67 (2).

Duties of candidate

69. (1) A candidate shall ensure that,

- (a) one or more campaign accounts are opened at a financial institution, exclusively for the purposes of the election campaign and in the name of the candidate's election campaign;
- (b) all contributions of money are deposited into the campaign accounts;
- (c) all payments for expenses, except for a nomination filing fee, are made from the campaign accounts;
- (d) contributions of goods or services are valued;
- (e) receipts are issued for every contribution and obtained for every expense;
- (f) records are kept of,
 - (i) the receipts issued for every contribution,

- (ii) the value of every contribution,
 - (iii) whether a contribution is in the form of money, goods or services, and
 - (iv) the contributor's name and address;
- (g) records are kept of every expense including the receipts obtained for each expense;
- (h) records are kept of any claim for payment of an expense that the candidate disputes or refuses to pay;
- (i) records are kept of the gross income from a fund-raising function and the gross amount of money received at a fund-raising function by donations of \$10 or less;
- (j) records are kept of any loan and its terms under section 75;
- (j.1) the records described in clauses (f), (g), (h), (i) and (j) are retained by the candidate for the term of office of the members of the council or local board and until their successors are elected and the newly elected council or local board is organized;
- (k) financial filings are made in accordance with section 78;
- (l) proper direction is given to the persons who are authorized to incur expenses and accept or solicit contributions on behalf of the candidate;
- (m) a contribution of money made or received in contravention of this Act is returned to the contributor as soon as possible after the candidate becomes aware of the contravention;
- (n) a contribution not returned to the contributor under clause (m) is paid to the clerk with whom the candidate's nomination was filed; and
- (o) an anonymous contribution is paid to the clerk with whom the candidate's nomination was filed. 1996, c. 32, Sched., s. 69 (1); 2002, c. 17, Sched. D, s. 26.

Who may contribute

- (3) Only the following may make contributions:
1. An individual who is normally resident in Ontario.
 2. A corporation that carries on business in Ontario.
 3. A trade union that holds bargaining rights for employees in Ontario.
 4. Subject to subsection (5), the candidate and his or her spouse or same-sex partner. 1996, c. 32, Sched., s. 70 (3); 1999, c. 6, s. 43 (4).

Same

- (4) For greater certainty, and without limiting the generality of subsection (3), the following shall not make a contribution:
1. A federal political party registered under the *Canada Elections Act* (Canada) or any federal constituency association or registered candidate at a federal election endorsed by that party.

2. A provincial political party, constituency association, registered candidate or leadership contestant registered under the *Election Finances Act*.

3. The Crown in right of Canada or Ontario, a municipality or local board. 1996, c. 32, Sched., s. 70 (4); 2002, c. 17, Sched. D, s. 27.

APPENDIX "B"

Municipal Act, 2001

S.O. 2001, CHAPTER 25

Role of head of council

- 225.** It is the role of the head of council,
- (a) to act as chief executive officer of the municipality;
 - (b) to preside over council meetings;
 - (c) to provide leadership to the council;
 - (d) to represent the municipality at official functions; and
 - (e) to carry out the duties of the head of council under this or any other Act. 2001, c. 25, s. 225.