

STAFF REPORT: ADMINISTRATION

REPORT TO: Council
MEETING DATE: March 22, 2010
REPORT NO.: A.10.03
SUBJECT: Joint Compliance Audit Committee – Terms of Reference
PREPARED BY: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report A.10.03 Joint Compliance Audit Committee – Terms of Reference and;

THAT Council adopt the Joint Election Audit Committee - Terms of Reference, 2010 Municipal Election and;

THAT Council will provide the Clerk with the names of possible candidates to represent The Blue Mountains and;

FURTHER THAT the Clerk will report to Council as to a prospective member willing to sit on the Joint Compliance Audit Committee for the four year term of office, for appointment by Council at a later date.

B. Background

On December 3rd, 2009 the Good Government Act, 2009 received Third Reading which means the New Municipal Elections Rules will take effect. The major changes are outlined in the AMO Alert No: 09/084 dated December 4, 2009 (attached).

The major changes include the date of municipal elections is now the fourth Monday of October, being October 25, 2010, new rules regarding campaign financing, and the requirement for compliance audits.

The Compliance Audit Committee is a mandatory appointment by all Municipalities and Boards with a minimum of three and maximum of seven members. The Compliance Audit Committee Members cannot be a candidate in the election, a Council or Board member, or employees of the municipality. The Committee Members must be appointed by October 1st in an election year and will serve a four year term (same as the term of Council).

The Clerk or Board Secretary will act as Committee Secretary. This Committee will address issues related to a candidate's election campaign finances.

The Clerks of six Grey County municipalities, being The Blue Mountains, Owen Sound, Grey Highlands, Meaford, West Grey and Georgian Bluffs have considered the benefits of appointing one Compliance Committee to represent the named Grey County municipalities.

Each municipality would forward the name of one appointed Committee Member to form the Committee of six members. When an application to conduct a compliance audit is received by a municipality, three of the six members appointed to the Joint Compliance Audit Committee shall serve as the Compliance Audit Committee, one member being of the host municipality, together with two other members being geographically located close to the respective municipality where the application was filed.

The Committee Members would be expected to travel to the participating municipalities if called on, depending on what Municipality received an application for compliance. The host Municipality would be responsible for remuneration of the Committee Members and the host municipality Clerk would act as the Secretary to the Committee.

C. The Blue Mountains' Strategic Plan

Providing a strong, well managed municipal government.

D. Budget Impact

There will be a budget impact should The Blue Mountains receive an application for a compliance audit. Remuneration and compensation outlined in the Terms of Reference for the position indicate \$150 per diem per member (3) plus mileage. The Blue Mountains is not responsible for payment of the per diem or expenses if a participating municipality receives an application for audit.

E. Environmental Impacts

None

F. Attached

1. AMO Member Communication Alert No: 09/084
2. Terms of Reference

Respectfully submitted,

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Joint Compliance Audit Committee
Terms of Reference
2010 Municipal Election

1. NAME

1.1 The Joint Compliance Audit Committee has the full delegation of authority of the *Municipal Elections Act, 1996 as amended* to address applications requesting an audit of a candidate's election campaign finances for the 2010 Municipal Election. This authority includes, but is not limited to the following:

1.1.1 Review applications and grant or reject audit requests

1.1.2 Where an audit is granted, to appoint an auditor and review the audit report

1.1.3 Where indicated, decide whether legal proceedings shall be commenced.

2. BACKGROUND

2.1 Section 81 of the Municipal Elections Act, 1996 as amended provides that Municipalities and School Boards shall appoint a compliance audit committee before October 1st, 2010. The powers and functions of the Committee are set out in subsections 81 (3), (4), (7), (10) and (11) of the Municipal Elections Act, 1996.

2.2 The Municipal Councils of The Municipality of Grey Highlands; Town of The Blue Mountains; Municipality of Meaford; City of Owen Sound; Municipality of West Grey; and Township of Georgian Bluffs have agreed to form a Joint Compliance Audit Committee (hereinafter referred to as "the Committee") to serve for the 2010 Municipal Election Term, namely commencing December 1, 2010 through November 30, 2014.

3. OBJECTIVES

3.1 To ensure that the provisions of the *Municipal Elections Act, 1996, Section 81* are not contravened and to follow the necessary steps to ensure compliance as noted in Section 81.

4. COMPOSITION

4.1 The Committee shall be comprised of six members of the public, one each from The Municipality of Grey Highlands; Town of the Blue Mountains; Municipality of Meaford; City of Owen Sound; Municipality of West Grey; and Township of Georgian Bluffs.

- 4.2 Members must possess an in-depth knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*, as amended. Therefore, membership from the following stakeholder groups is encouraged to apply:
 - 4.2.1 Accounting and audit – accountants or auditors with experience in preparing or auditing the financial statements of a municipal candidates; and/or
 - 4.2.2 Academic – college or university professors with expertise in political science or local government administration; and/or
 - 4.2.3 Legal; and/or
 - 4.2.4 Other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*, as amended.
- 4.3 Committee members will be appointed by their respective Municipal Councils.
- 4.4 When an application has been filed under Section 81 of the Municipal Elections Act, only three of the six members of the Joint Compliance Audit Committee shall comprise the audit committee for the purpose of reviewing the application.
 - 4.4.1 The three members will be made up of one being from the host municipality where an application to conduct a compliance audit has been filed and the other members being the closest municipalities geographically to the respective municipality where the application was filed. Should the two closest members be unable to attend, then the next closest member(s) will attend.
 - 4.4.2 The Clerk of the host municipality will make the determination as to which municipalities are the closest to the host municipality.
- 4.5 To avoid possible conflicts of interest, an auditor or accountant appointed to the Committee must agree in writing to not undertake the audits or preparation of the financial statements of any candidates seeking election to Council. Failure to adhere to this requirement will result in the individual being removed from the committee.
- 4.6 The Chair of the committee shall be the committee member from the host municipality where the application is being heard.
- 4.7 The Clerk or designate of the host municipality where an application is being heard shall act as Secretary to the Committee.

4.8 Members of Council, Municipal Election Candidates or Employees of the municipality are prohibited from being appointed to the Committee.

5. TERM

5.1 The term of office for committee members is from December 1st, 2010 to November 30th, 2014.

6. RESOURCES

6.1 The Clerks Department from each respective municipality where an application is filed will provide support in the form of advice and day-to-day liaison with the Committee.

7. PROCEDURES AND TIMEFRAMES

7.1 Requirements

7.1.1 An application for a compliance audit shall be made to the Clerk of the municipality or the secretary of the local board for which the candidate was nominated for office. The application must be in writing and shall set out the reasons for the elector's belief.

7.2 Deadline

7.2.1 The application must be made within 90 days after the latest of:

7.2.1.1 the filing date under Section 78,

7.2.1.2 the candidate's supplementary filing date, if any, under section 78,

7.2.1.3 the filing date for the final financial statement under Section 79.1, or

7.2.1.4 the date on which the candidate's extension, if any, under Subsection 80(3) expires.

7.3 Procedures

7.3.1 **Application** to be forwarded to Committee – within 10 days after receiving the application, the Clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the Committee and provide a copy of the application to the Council or local board.

7.3.2 **Decision** – Within 30 days after receiving the application, the Committee shall consider the application and decide whether it should be granted or rejected.

7.3.3 **Appeal** – The decision of the Committee may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the committee could have made.

7.4 Meetings

7.4.1 The first meeting of the Committee shall be called by the Clerk of the respective municipality where an application to conduct a compliance audit has been filed. The date and time of the meeting shall be determined by the Clerk and communicated directly to Committee members. Subsequent meetings shall be held at the call of the Committee Chair. All time frames established in the *Municipal Elections Act, 1996*, as amended, and regulations thereto, shall be adhered to.

7.4.2 The Chair shall cause notice of the meetings, including the agenda for the meetings, to be provided to members of the Committee a minimum of three (3) business days prior to the date of each meeting. A quorum for meetings shall consist of a majority of the members of the Committee.

7.4.3 Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

7.4.4 Meetings of the Committee shall be governed by the Municipalities Procedural By-law.

7.4.5 Meetings shall be conducted in the respective municipality where the application was filed.

7.4.6 The Clerk of the respective municipality where the application was filed shall be responsible for the notice, agenda and minutes.

7.5 Attendance

7.5.1 Any member of the Committee, who is absent from three consecutive meetings, without being excused by the Committee, may be removed from the Committee. The Committee shall make recommendations, by a report to Council, for the removal of a member.

7.6 Location

7.6.1 The location of the meetings shall be set by the Clerk of the municipality where the application has jurisdiction over.

7.7 Purchasing

7.7.1 Purchasing responsibilities of the respective municipalities shall be followed.

7.8 Costs

7.8.1 The Council of the respective municipality where the application was filed shall pay all costs in relation to the committee's operation and activities.

7.9 Remuneration

7.9.1 Members of the Committee shall be paid a per diem for the time of the meeting at a rate of \$150 per day plus mileage expenses at the current mileage rate established by the County of Grey. The Clerk of the respective municipality shall ensure and verify the validity of the meeting.

7.10 Closed Meetings

7.10.1 The Committee may, upon affirmative vote of the majority of its members present at a meeting, determine to hold any meeting or part of a meeting as a closed session in order to discuss sensitive personal issues or legal matters. If the Committee elects to hold a closed session, all persons not entitled to vote (with the exception of the staff liaison(s), if any, and all persons excepted by the members) shall vacate the premises where the meeting is taking place. Closed meeting shall only be held in accordance with Section 239 of the *Municipal Act*.

7.11 Conflicts

7.11.1 Members shall abide by the rules outlined within the *Municipal Conflict of Interest Act* and shall disclose a pecuniary interest to the Secretary and absent himself or herself from meetings for the duration of the discussion and voting (if any) with respect to the matter.

7.12 Errors/Omissions

7.12.1 The accidental omission to give notice of any meeting of the Committee to its members, or the non-receipt of any notice by any member, or any error in any notice that does not affect its substance, does not invalidate any resolution passed or any proceedings taken at the meeting. Any members of the Committee may at any time waive notice of any meeting.

7.13 Expulsion

7.13.1 This Committee and/or Clerk may recommend to the respective Council where the application was filed for the expulsion of a member for reasons as listed, but not limited to:

7.13.1.1 The member being in contravention of the *Municipal Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, the *Provincial Offences Act*, the *Municipal Conflict of Interest Act* and the *Municipal Elections Act*;

7.13.1.2 Disrupting the work of the Committee; or

7.13.1.3 Other legal issues