

City of North Bay Report to Council

Report No: CORP-2021-130

Date: November 8, 2021

Originator: Karen McIsaac, City Clerk

Business Unit:

Department:

Corporate Services

Clerks Department

Subject: Municipal Elections 2022 - Appointment of Compliance Audit Committee

Closed Session: yes ☐ no ☒

Recommendation

That:

1. Council appoint a Compliance Audit Committee in accordance with the *Municipal Elections Act*; and
2. the City Clerk be authorized to advertise for applications for citizen appointments to the Compliance Audit Committee.

Background

Voting Day for a regular municipal election is the 4th Monday in October of the election year. In 2022 Voting Day is Monday, October 24, 2022.

Section 88.37(1) of the *Municipal Elections Act* requires that each council or local board must establish a Compliance Audit Committee. The Committee is to be established before October 1st of an election year.

The Committee must have a minimum of 3 members and a maximum of 7 members and serves for the same term as the council or local board. The Committee is not to include employees or officers of a municipality or local board; members of the council or local board; persons who are candidates in the election for which the Committee established; or any persons who are registered third parties in the municipality in the election for which the committee is established.

Under the provisions of the *Act* there are limits on campaign expenses for a municipal election and candidates are required to file financial

statements. Any elector, who believes on reasonable grounds that a candidate has contravened the provision of the *Act* relating to election campaign finances, can apply for a compliance audit of the candidate's election campaign finances. The application for a compliance audit must be made in writing to the Clerk within 90 days of the filing of financial statements by the candidate.

Within 30 days of receiving an application the Committee must consider the application and decide whether it should be granted or rejected.

The role of the Compliance Audit Committee (the "CAC") is to receive and make decisions on applications for compliance audits of candidates' and registered third party election campaign finances and any by-elections during a Council's Term. The CAC is also responsible for reviewing reports submitted to the CAC by the Clerk with respect to any contributor who appears to have contravened any of the contribution limits to a candidate's election campaign or to a registered third party election campaign. The powers and functions are in accordance with the *Act*.

The Committee has the authority:

- to grant or reject a compliance audit application,
- to appoint an auditor to conduct the audit where the application is granted and to receive the results,
- to commence legal proceedings against the candidate for any apparent contravention within 30 days of receiving the auditor's report,
- to commence legal proceedings against a registered third party for any apparent contravention of contributors, and
- make a finding whether or not there were reasonable grounds for making the application if the auditor's report concludes that the candidate did not appear to have contravened a provision of the *Act* relating to their campaign expenses.

In accordance with Section 88.37(6) of the *Act* the Clerk of the municipality or the secretary of the local board may establish administrative practices and procedures for the committee and shall carry out any of the duties required under the *Act* to implement the Committee's decision.

Compliance Audit Committee members should possess an in-depth knowledge of the campaign finance rules of *Act* so that they can make independent decisions on the merits of an application. As the Committee would operate as a quasi-judicial committee, prior experience on a committee or task force would be an asset.

The Compliance Audit Committees appointed for the 2018 Election heard one application under the *Act*.

This report is being submitted at this time in order that the application process can begin early in the campaign period, which commences on May 1, 2022.

Financial/Legal Implications

Under section 88.37(7) of the *Municipal Elections Act* the municipality or local board is responsible for any costs related to performing the audit.

The Compliance Audit Committee's administrative expenses would be funded from the Municipal Election Operating Budget.

In keeping with Council's previous decision, it is recommended that all appointments be on a volunteer basis and no compensation will be paid.

There are no legal implications.

Corporate Strategic Plan

- | | |
|---|--|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input type="checkbox"/> Spirited Safe Community |
| <input checked="" type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

Ensure continuous improvement of governance.

Options Analysis

Option 1: That Council appoint a Compliance Audit Committee in accordance with the *Municipal Elections Act*.

This is the recommended option.

Option 2: That Council not appoint a Compliance Audit Committee in accordance with the *Municipal Elections Act*.

Pursuant to section 88(37).1 Council must appoint a Compliance Audit Committee. Therefore Council does not have the option of not appointing a Compliance Audit Committee.

Recommended Option

That:

1. Council appoint a Compliance Audit Committee in accordance with the *Municipal Elections Act*; and
2. the City Clerk be authorized to advertise for applications for citizen appointments to the Compliance Audit Committee.

Respectfully submitted,

Name: Karen McIsaac, Dipl. M.A.

Title: City Clerk

I concur with this report and recommendation.

Name: David Euler, P.Eng., PMP:

Title: Chief Administrative Officer

Personnel designated for continuance:

Name: Karen McIsaac

Title: City Clerk