

## Request for Decision

### Adoption of Election Compliance Audit Committee Procedure By-law 2014-2018 Number One

Presented To:	Election Compliance Audit Committee
Presented:	Monday, Jan 04, 2016
Report Date	Friday, Dec 18, 2015
Type:	Managers' Reports

### Recommendation

THAT Election Compliance Audit Committee Procedure By-law 2014-2018 Number One, a By-Law of the City of Greater Sudbury Election Compliance Audit Committee to establish procedural rules, be adopted as described in the report from the Executive Director, Administrative Services/City Clerk.

## Background

In accordance with the Municipal Elections Act requirements for local boards and committees, the Election Compliance Audit Committee of the City of Greater Sudbury must enact a Procedure By-Law that governs the calling, notice of, place and proceedings of all meetings.

In January 2011, the first Election Compliance Audit Committee of the City of Greater Sudbury met for the primary purpose of establishing a Procedure By-law for the Committee. The Committee reviewed the draft By-Law in some detail and adopted the Procedure By-Law at that time. As the Municipal Elections Act requires that before October 1st of an election year, the Council establish a Committee for the purposes of Election Compliance Audits, each term is a different Committee and must re-pass the Procedure By-Law for that term of the Committee.

The Procedure By-Law 2014-2018 Number One is essentially the same Procedure By-Law that was reviewed and adopted by the previous Committee, with some minor amendments of a housekeeping nature to reflect the updates Terms of Reference and Membership of the Committee as described in *City of Greater Sudbury By-Law 2014-205: A By-Law of the City of Greater Sudbury to Establish and Appoint a Municipal Election Compliance Audit Committee for the Term Commencing December 1, 2014 through and including November 1, 2018* as well as to include reference to the relevant sections of the Municipal Elections Act.

Election Compliance Audit Committee Procedure By-Law 2014-2018 Number One is attached as Appendix A

City of Greater Sudbury By-Law 2014-2015 is attached as Appendix B

#### Signed By

##### **Recommended by the Department**

Caroline Hallsworth  
Executive Director, Administrative  
Services/City Clerk  
*Digitally Signed Dec 18, 15*

##### **Recommended by the C.A.O.**

Kevin Fowke  
Acting Chief Administrative Officer  
*Digitally Signed Dec 18, 15*

**BY-LAW 2014-2018 No. 1**

**A BY-LAW OF THE CITY OF GREATER SUDBURY  
ELECTION COMPLIANCE AUDIT COMMITTEE  
TO ESTABLISH PROCEDURAL RULES FOR THE COMMITTEE**

**WHEREAS** the City of Greater Sudbury is required to establish a compliance audit committee pursuant to section 81.1 of the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, Sched.;

**AND WHEREAS** the Council of the City of Greater Sudbury passed Resolution 2014-292 and By-law 2014-205 on September 9, 2014 establishing an Election Compliance Audit Committee, adopting the Terms of Reference for the Committee and appointing 4 persons as members of the Election Compliance Audit Committee;

**AND WHEREAS** section 238 of the *Municipal Act, 2001*, requires every local board to establish a procedure by-law governing the calling, place and proceedings of meetings, and for public notice of local board meetings;

**NOW THEREFORE THE CITY OF GREATER SUDBURY ELECTION  
COMPLIANCE AUDIT COMMITTEE ENACTS AS FOLLOWS:**

**1. INTERPRETATION**

1.01 Wherever this by-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the by-law with the gender applicable to the circumstances.

1.02 The headings in this by-law are inserted for ease of reference only and are not to be used as interpretation aids.

## Definitions

1.03 For the purposes of this by-law:

“Applicant” shall mean a person who submitted an Application;

“Application” shall mean an application received by the Clerk pursuant to section 81 of the *Municipal Elections Act, 1996*;

“Auditor” shall mean an auditor appointed by the Committee pursuant to section 81 of the *Municipal Elections Act, 1996* and licensed under the *Public Accounting Act, 2004*;

“Auditor’s Report” shall mean an Auditor’s Report submitted pursuant to section 81 of the *Municipal Elections Act, 1996*;

“Candidate” shall mean a candidate whose election campaign finances are the subject of an Application;

“Chair” shall mean the Chair of the Committee selected pursuant to Article 4 of this by-law;

“City” shall mean the City of Greater Sudbury;

“Clerk” shall mean the City Clerk or his or her delegate;

“Committee” shall mean the Election Compliance Audit Committee of the City of Greater Sudbury appointed pursuant to section 81.1 of the *Municipal Elections Act, 1996*;

“Council” shall mean the municipal council of the City of Greater Sudbury;

“Exhibits” shall mean any documents, photographs or other records submitted by an Applicant or Candidate in support of his written or oral submissions;

“MEA” shall mean the *Municipal Elections Act, 1996*;

“Meeting” shall mean a Meeting of the Committee; and

“Member” shall mean the Members of the Committee appointed by Council for the term of the Committee.

## **2. APPLICATION OF THIS BY-LAW**

### **Observance of all Rules in By-law**

2.01 The rules in this by-law shall be observed in all Meetings.

### **Matters not contemplated in this by-law**

2.02 For the purpose of interpreting this by-law or determining a proper course of action for matters that may arise that are not specifically contemplated by this by-law, reference shall be made to the most recent edition of Robert’s Rules of Order in existence. If these rules and Robert’s Rules of Order do not provide for a matter of procedure that arises during a Meeting, the practice shall be determined by the Chair in consultation with the Clerk and the Chair may do whatever is necessary and permitted by law to enable the Committee to effectively and completely decide the matter before it.

## **3. BY-LAWS & RESOLUTIONS**

### **Amending this By-law**

3.01 After consultation with the Clerk the Committee may pass a by-law to modify a rule of procedure in this by-law.

3.02 A vote to modify made in accordance with Article 3.01 of this by-law must be unanimous.

3.03 All by-laws shall be signed by the Clerk and the Chair.

### **All Other Matters by Resolution**

3.04 All other matters of the Committee shall be dealt with by resolution signed by mover, seconder and the Chair.

3.05 Resolutions shall appear verbatim in the Minutes.

## **4. CHAIR & VICE CHAIR**

### **Role of the Chair**

4.01 The Chair is the liaison between the Members and the Clerk on matters of policy and process.

4.02 The Chair shall enforce the observance of order and decorum amongst the Members and the public at all Meetings.

### **Appointment of Chair**

4.03 At its first Meeting, the Committee shall elect one of its Members as Chair and another Member as its Vice Chair for the term of the Committee. The persons elected as Chair and Vice Chair shall be the Chair and Vice Chair for all matters before the Committee.

### **Resignation or Absence of Chair or Vice Chair**

4.04 If the Chair or Vice Chair:

- 1) resigns as a Member,
- 2) resigns as Chair or Vice Chair
- 3) or is otherwise unwilling or unable to perform their duties,

the other Members shall appoint another Member as Chair or Vice Chair, as the case may be, for the balance of the term of the Committee.

## **5. DELEGATION BY CLERK**

### **Delegation by Clerk**

5.01 The Clerk may delegate administrative responsibilities to an appropriate staff member.

## **6. APPLICATIONS AND CANDIDATE RESPONSES**

### **Applicant and Candidate Shall Provide Form**

6.01 An Applicant shall complete an Application form.

6.02 Along with the Application form, an Applicant shall provide written submissions in support of his belief that a Candidate has contravened a provision of the *MEA* relating to election campaign finances.

6.03 The Application form, written submissions and the applicable fee pursuant to the City's User Fee By-law 2015-8, as amended or replaced from time to time, shall be submitted to the Clerk within the timelines required by the *MEA*.

6.04 Where a Candidate receives notice that he is the subject of an Application, the Candidate may respond to the Application in writing.

6.05 A Candidate shall provide a Candidate Response form to accompany his written submissions on an Application.

### **Form to be Determined by Clerk**

6.06 Application and candidate response forms shall be in a form to be determined by the Clerk.

6.07 Where the Candidate elects to provide a written response to an Application, the response shall be submitted to the Clerk no less than 5 business days prior to the Meeting at which the Application will be considered.

6.08 Where the Clerk receives a written response to an Application from a Candidate, the Clerk shall provide a copy of the written response to all persons notified of the Meeting at which the Application will be considered, no less than 3 business days prior to the meeting at which the Application will be considered.

#### **Limit of Pages on Written Submissions**

6.09 Written submissions in support of an Application or a Candidate's written response shall be provided in a legible form with a reasonable font size and be no longer than 10 pages, one-sided. The 10 page limit does not include the required form.

### **7. FILING OF EXHIBITS**

7.01 Where an Applicant or Candidate will refer to an Exhibit in his address to the Committee, Exhibits shall be submitted with the written submissions and required form.

7.02 Where the Exhibit was not provided with the written submissions, 10 copies of the Exhibit shall be submitted to the Clerk 3 business days prior to the Meeting where the address shall occur.

7.03 Exhibits shall not be included in the 10 page limit provided for in Article 6.09.

### **8. PUBLIC REVIEW OF EXHIBITS AND SUBMISSIONS**

8.01 Applications, Exhibits, copies of Exhibits and written submissions by the Applicant and Candidate will be posted on the City's website and shall be available to the public for review by request to Clerks Services.

### **9. REJECTION OF APPLICATIONS BY THE CLERK**

9.01 Where an Application is submitted before or after the 90 days provided in accordance with the *MEA*, an Application shall be rejected by the Clerk.

9.02 Where the Clerk determines that the Applicant is not a qualified elector entitled to make an Application in accordance with the *MEA*, the Clerk shall reject the Application.

9.03 Where the Applicant has not provided written submissions setting out the reasons for the elector's belief that a Candidate has contravened the *MEA* relating to election campaign finances, the Application shall be rejected by the Clerk.

9.04 Where the Applicant has not complied with the requirements of Article 6.03, the Application shall be rejected by the Clerk.

## **10. NOTICE OF A MEETING**

### **Notice of Meeting**

10.01 A Meeting notice shall be in the form of an agenda, which shall first make mention of the date, time, place for the meeting.

10.02 Where an Application will be considered at a Meeting, the notice of the Meeting shall include the content of the Application.

10.03 Meeting notices and minutes shall be posted on the City's website.

### **Timing of Meeting**

10.04 The Clerk shall issue notice of a Meeting within 10 days of receipt of an Application.

10.05 The Clerk shall issue notice of a Meeting within 10 days of receipt of an Auditor's Report.

10.06 The Committee shall consider an Application no later than 30 days after it receives the Application.

10.07 The Committee shall consider the Auditor's Report no later than 30 days after it receives the Auditor's Report.



## **Who Receives Notice**

10.08 The Clerk shall give notice to:

- (a) All Members;
- (b) Where an Application or Application-related matter will be considered to the Applicant;
- (c) Where an Application or Application-related matter will be considered to the Candidate who is the subject of the Application;
- (d) Members of Council;
- (e) The Auditor when the Auditor's Report is being considered; and
- (f) Such other persons as the Chair of the meeting in question or the Clerk deems necessary.

## **Notice to the Applicant and Candidate**

10.9 At a Meeting where an Application or an Application-related matter is to be considered, the Clerk shall give notice in writing to the Applicant and Candidate of the fact that if either party fails to attend the Meeting, the Committee may proceed in the party's absence and the party shall not be entitled to further notice in relation to the Meeting.

## **Notice of Meeting where Auditor's Report is Submitted**

10.10 Where an Auditor's Report will be considered at a Meeting, the notice shall include a copy of the Auditor's Report.

## **Distribution of the Meeting Notice**

10.11 The Clerk may send the notice electronically or by hard copy so as to be received by Members no later than three business days prior to the meeting date.

10.12 The Clerk shall also ensure that an electronic copy of the agenda is posted to the City's website prior to the meeting.

### **Distribution by More than One Means**

10.13 Nothing herein precludes the Clerk from distributing an agenda by more than one means.

### **Notice Not Received - Validity of Meeting**

10.14 Failure of any person outlined herein to receive notice of a meeting shall not affect the validity of the Meeting, nor any decisions, recommendations, or actions resulting therefrom.

## **11. NOTICE OF DECISION**

11.01 When the Committee has made a decision on an Application or an Application-related matter, the Clerk shall issue notice of the decision, by way of copy of the resolution, to the Applicant and the Candidate by email or by regular mail at the addresses filed with the Clerk.

11.02 Notice of a decision shall be issued to the Candidate and Applicant within 3 business days of the decision.

11.03 Council shall receive notice of a decision by way of the Meeting minutes.

## **12. MEETINGS**

12.01 The Committee shall meet at the request of the Clerk.

12.03 Meetings shall be held at 200 Brady Street in Sudbury, Ontario, or at such other location as the Clerk deems appropriate.

12.04 Meetings shall commence at a time and date determined by the Clerk and as appears in the Meeting Notice.

12.05 Meetings shall be adjourned on a vote of the Committee.

12.06 Meetings shall be conducted in accordance with section 239 of the *Municipal Act, 2001*, attached as Appendix A to this by-law.

### **13. AGENDA**

#### **Preparation of Agenda**

13.01 The Clerk shall provide an agenda to all persons in accordance with Article 10 of this by-law.

#### **Declaration of Conflict of Interest**

13.02 The first matter of business on each agenda shall be the declaration of any pecuniary interest pursuant to the *Municipal Conflict of Interest Act* and the general nature thereof.

### **14. QUORUM**

#### **Three Members Constitute Quorum**

14.01 Three members constitute a quorum, unless deemed otherwise in accordance with the *Municipal Conflict of Interest Act*.

#### **Lack of Quorum**

14.02 There is no quorum if:

- (a) 3 Members are not present within 30 minutes after the time fixed for a Meeting,
- (b) 3 Members are not present after the resumption of a Meeting after a recess, or
- (c) 3 Members are not in attendance at all times during a Meeting.

14.03 Where there is no quorum, the Clerk shall record the names of the Members present and the Meeting shall be adjourned until the next Meeting.

## **15. RULES OF DEBATE**

### **Order of Speaking for Members**

15.01 When two or more Members wish to speak, the Chair shall designate the Member who first requested to speak as the Member who speaks first.

### **Questions by Members**

15.02 A Member may ask a question only:

- (a) of a Member who has already spoken on the matter under discussion;
- (b) of the Chair;
- (c) of a City official, as appropriate; and
- (d) of any other person addressing the Committee pursuant to this by-law.

15.03 A Member may ask a question only for the purpose of obtaining information relating to the matter then under discussion.

### **Announcement of Agenda Item to be Considered**

15.04 Prior to consideration of an item on the agenda, the Chair shall identify for those present the agenda item to be considered.

### **Procedure for Addressing the Committee on an Application**

15.05 When the agenda item is an Application, the Chair shall read an opening statement outlining the procedure and format of the Meeting.

15.06 After the opening statement and prior to consideration of an Application, the Chair shall request that the Applicant and Candidate and their agents:

- (a) identify themselves to the Committee and Clerk; and

(b) provide their names, mailing addresses and email address in writing to the Clerk during the Meeting.

15.07 The Chair shall entertain any statements from Members after reading the opening statement and recording of information of the Applicant and Candidate. Once an Applicant has begun an address to the Committee, no motion, including a motion to refer or to defer, shall be read or voted upon until the Applicant, Candidate or their agents have had the opportunity to address the Committee.

### **Addressing the Committee**

15.08 City staff may put a request to the Clerk to address the Committee.

15.09 Other persons having business before the Committee may put a request to the Clerk to address the Committee and the decision to grant that request is within the discretion of the Clerk.

15.10 When an Application is before the Committee for consideration, the Applicant or his agent may address the Committee with respect to his Application and the written submissions of the Candidate.

15.11 When an Application is before the Committee for consideration, the Candidate or his agent may address the Committee in response to the written or oral submissions of the Applicant.

15.12 When an Application is before the Committee for consideration, if both the Applicant and the Candidate or their agents wish to address the Committee, the addresses shall be made in the following order:

- (a) The Applicant or the Applicant's agent.
- (b) The Candidate or the Candidate's agent.

15.13 Addresses shall be no longer than 10 minutes.

### **Questions of the Applicant or Candidate**

15.14 The Members may, through the Chair, ask questions of the Applicant or Candidate or their agents.

### **Viewing of Documents submitted by Applicant**

15.15 The Candidate shall be permitted to view any documents or Exhibits submitted to the Committee by the Applicant or his or her agent and the Applicant shall be permitted to view any documents or Exhibits submitted to the Committee by the Candidate or his or her agent.

## **16. MOTIONS**

16.01 Members may make motions with respect to any business properly before the Committee.

16.02 The Clerk shall record a motion in writing.

16.03 A motion shall have a mover and a seconder.

16.04 When a motion is put forth for a vote, every Member entitled to vote and present at a Meeting shall vote, unless prohibited by statute, in which case the fact of the prohibition shall be recorded in the minutes of the Meeting. Where a Member abstains from voting, that vote shall be a vote in the negative.

16.05 If there is more than one motion with respect to a matter, the Clerk shall record all motions in writing and read the various motions to the Members prior to the vote being taken, in the order that the motions were received.

## **17. VOTING**

### **Majority Vote Required**

17.01 A motion is passed when a majority of Members entitled to vote, vote in favour of the matter.

### **Tie Vote – Motion Deemed Lost**

17.02 In the event of a tie vote, the motion shall be deemed to be lost.

### **Voting Calculation**

17.03 When a vote is called for:

- (a) The count shall include only those present and not excluded from voting by the provisions of this by-law or by law; and
- (b) The Chair shall be included in the count.

<b>Members Entitled to Vote &amp; Present</b>	<b>Majority</b>
4	3 or more
3	2 or more

## **18. MINUTES**

### **Preparation of Minutes**

18.01 The Clerk shall prepare minutes of each Meeting in accordance with the *Municipal Act, 2001*.

## **Adoption of Minutes**

18.02 Minutes of a Meeting shall be adopted by the Committee at the subsequent Meeting.

## **Correction of Errors or Omissions in Minutes**

18.03 In adopting the minutes of a Meeting, corrections of clerical errors or omissions may be made by Members without debate.

## **19. POWERS OF THE COMMITTEE**

### **When Considering Applications**

19.01 Where the Committee is in receipt of an Application, the Committee shall decide whether to grant or reject the Application.

19.02 If the Committee decides to grant the Application, the Committee shall appoint an Auditor to conduct a compliance audit of the Candidate's election campaign finances.

### **Consideration of an Auditor's Report**

19.03 Where the Committee is in receipt of an Auditor's Report, the Committee shall consider the Report.

19.04 Where an Auditor's Report concludes that the Candidate does not appear to have contravened a provision of the *MEA* relating to election campaign finances, the Committee may make a finding as to whether there were reasonable grounds for the Application.



19.05 Where an Auditor's Report concludes that the Candidate appears to have contravened a provision of the *MEA* relating to election campaign finances, the Committee may commence a legal proceeding against the Candidate for the apparent contravention.

**20. RETENTION OF PROFESSIONAL SERVICES BY THE COMMITTEE**

20.01 Where the Committee retains the professional services of an auditor or lawyer, the Committee shall obtain services in accordance with the City's Purchasing By-law.

**21. ENACTMENT**

21.01 This By-law shall come into force on the date of its enactment.

**READ AND PASSED IN COMMITTEE** this 4<sup>th</sup> day of January, 2016.

\_\_\_\_\_Chair

\_\_\_\_\_Clerk

## APPENDIX A

### ***Municipal Act, 2001, section 239***

#### **Meetings open to public**

**239. (1)** Except as provided in this section, all meetings shall be open to the public. 2001, c. 25, s. 239 (1).

#### **Exceptions**

**(2)** A meeting or part of a meeting may be closed to the public if the subject matter being considered is,

- (a) the security of the property of the municipality or local board;
- (b) personal matters about an identifiable individual, including municipal or local board employees;
- (c) a proposed or pending acquisition or disposition of land by the municipality or local board;
- (d) labour relations or employee negotiations;
- (e) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;
- (f) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- (g) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act. 2001, c. 25, s. 239 (2).

#### **Other criteria**

**(3)** A meeting shall be closed to the public if the subject matter relates to the consideration of a request under the *Municipal Freedom of Information and Protection of Privacy Act* if the council, board, commission or other body is the head of an institution for the purposes of that Act. 2001, c. 25, s. 239 (3).

#### **Educational or training sessions**

**(3.1)** A meeting of a council or local board or of a committee of either of them may be closed to the public if the following conditions are both satisfied:

1. The meeting is held for the purpose of educating or training the members.
2. At the meeting, no member discusses or otherwise deals with any matter in a way that materially advances the business or decision-making of the council, local board or committee. 2006, c. 32, Sched. A, s. 103 (1).

#### **Resolution**

**(4)** Before holding a meeting or part of a meeting that is to be closed to the public, a municipality or local board or committee of either of them shall state by resolution,

- (a) the fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or
- (b) in the case of a meeting under subsection (3.1), the fact of the holding of the closed meeting, the general nature of its subject-matter and that it is to be closed under that subsection. 2001, c. 25, s. 239 (4); 2006, c. 32, Sched. A, s. 103 (2).

### **Open meeting**

[\(5\)](#) Subject to subsection (6), a meeting shall not be closed to the public during the taking of a vote. 2001, c. 25, s. 239 (5).

### **Exception**

- [\(6\)](#) Despite section 244, a meeting may be closed to the public during a vote if,
- (a) subsection (2) or (3) permits or requires the meeting to be closed to the public; and
  - (b) the vote is for a procedural matter or for giving directions or instructions to officers, employees or agents of the municipality, local board or committee of either of them or persons retained by or under a contract with the municipality or local board. 2001, c. 25, s. 239 (6).

### **Record of meeting**

[\(7\)](#) A municipality or local board or a committee of either of them shall record without note or comment all resolutions, decisions and other proceedings at a meeting of the body, whether it is closed to the public or not. 2006, c. 32, Sched. A, s. 103 (3).

### **Same**

- [\(8\)](#) The record required by subsection (7) shall be made by,
- (a) the clerk, in the case of a meeting of council; or
  - (b) the appropriate officer, in the case of a meeting of a local board or committee. 2006, c. 32, Sched. A, s. 103 (3).

### **Record may be disclosed**

[\(9\)](#) Clause 6 (1) (b) of the *Municipal Freedom of Information and Protection of Privacy Act* does not apply to a record of a meeting closed under subsection (3.1). 2006, c. 32, Sched. A, s. 103 (3).

## ***Municipal Election Act, 1996, sections 81 and 81.1***

### **Compliance audit**

#### **Application**

**81. (1)** An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

## **Requirements**

(2) 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; and it shall be in writing and shall set out the reasons for the elector's belief. 2009, c. 33, Sched. 21, s. 8 (44).

## **Deadline**

- (3) The application must be made within 90 days after the latest of,
- (a) the filing date under section 78;
  - (b) the candidate's supplementary filing date, if any, under section 78;
  - (c) the filing date for the final financial statement under section 79.1; or
  - (d) the date on which the candidate's extension, if any, under subsection 80 (4) expires. 2009, c. 33, Sched. 21, s. 8 (44).

## **Application to be forwarded to committee**

(4) 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 compliance audit committee established under section 81.1 and provide a copy of the application to the council or local board. 2009, c. 33, Sched. 21, s. 8 (44).

## **Decision**

(5) Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected. 2009, c. 33, Sched. 21, s. 8 (44).

## **Appeal**

(6) 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. 2009, c. 33, Sched. 21, s. 8 (44).

## **Appointment of auditor**

(7) If the committee decides under subsection (5) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

## **Same**

(8) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (7). 2009, c. 33, Sched. 21, s. 8 (44).

## **Duty of auditor**

(9) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

## **Who receives report**

- (10) The auditor shall submit the report to,
- (a) the candidate;

- (b) the council or local board, as the case may be;
- (c) the clerk with whom the candidate filed his or her nomination;
- (d) the secretary of the local board, if applicable; and
- (e) the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

#### **Report to be forwarded to committee**

(11) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2009, c. 33, Sched. 21, s. 8 (44).

#### **Powers of auditor**

- (12) For the purpose of the audit, the auditor,
- (a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
  - (b) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the audit as if it were an inquiry under that Act. 2009, c. 33, Sched. 21, s. 8 (44).

#### **Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:**

(b) has the powers set out in section 33 of the *Public Inquiries Act, 2009* and section 33 applies to the audit.

**See: 2009, c. 33, Sched. 21, ss. 8 (45), 13 (2).**

#### **Costs**

(13) The municipality or local board shall pay the auditor's costs of performing the audit. 2009, c. 33, Sched. 21, s. 8 (44).

#### **Power of committee**

- (14) The committee shall consider the report within 30 days after receiving it and may,
- (a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence a legal proceeding against the candidate for the apparent contravention;
  - (b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application. 2009, c. 33, Sched. 21, s. 8 (44).

#### **Recovery of costs**

(15) If the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

## **Immunity**

(16) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (7) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2009, c. 33, Sched. 21, s. 8 (44).

## **Saving provision**

(17) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

## **Compliance audit committee**

**81.1 (1)** A council or local board shall, before October 1 of an election year, establish a committee for the purposes of section 81. 2009, c. 33, Sched. 21, s. 8 (44).

## **Composition**

(2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,

- (a) employees or officers of the municipality or local board;
- (b) members of the council or local board; or
- (c) any persons who are candidates in the election for which the committee is established. 2009, c. 33, Sched. 21, s. 8 (44).

## **Term of office**

(3) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2009, c. 33, Sched. 21, s. 8 (44).

## **Role of clerk or secretary**

(4) The clerk of the municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee and shall carry out any other duties required under this Act to implement the committee's decisions. 2009, c. 33, Sched. 21, s. 8 (44).

## **Costs**

(5) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2009, c. 33, Sched. 21, s. 8 (44).

**By-law 2014-205**

**A By-law of the City of Greater Sudbury to Establish and Appoint  
a Municipal Election Compliance Audit Committee  
for the Term commencing December 1, 2014  
through and including November 30, 2018**

**WHEREAS** section 81.1 of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Schedule requires a municipal council to establish a compliance audit committee for the purposes described in that Act;

**AND WHEREAS** the Council of the City of Greater Sudbury wishes to adopt the terms of reference as set out in Schedule "A" for the City's municipal election compliance audit committee in place of the terms of reference adopted by resolution 2010-197 and confirmed by By-law 2010-101;

**AND WHEREAS** the Council of the City of Greater Sudbury wishes to appoint the members of the Municipal Election Compliance Audit Committee of the City of Greater Sudbury for the term starting December 1, 2014 and ending November 30, 2018;

**Now therefore the Council of the City of Greater Sudbury hereby enacts as Follows:**

**Establishment**

1. The Council of the City of Greater Sudbury hereby establishes a compliance audit committee for the purposes of section 81 of the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, which committee shall be referred to as the "Municipal Election Compliance Audit Committee".

2. The term of the Municipal Election Compliance Audit Committee shall commence December 1, 2014 until and including November 30, 2018.

### **Function and Powers and Terms of Reference**

3.-(1) The Municipal Election Compliance Audit Committee has the function and powers prescribed for a committee established under section 81.1 of the *Municipal Elections Act*, 1996, S.O. 1996, c. 32, Schedule.

- (2) The terms of reference for the Municipal Election Compliance Audit Committee as set out in Schedule "A" are adopted and shall form part of this by-law.

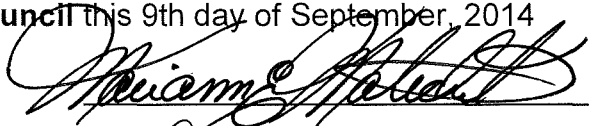
### **Appointment**

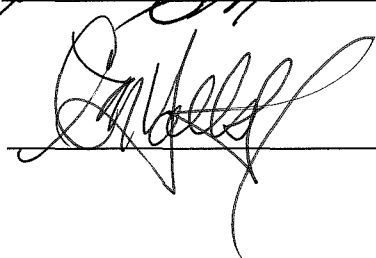
4. The following persons are appointed as members of the Municipal Election Compliance Audit Committee for the period commencing December 1, 2014 through and including November 30, 2018:

Charles Cardinal-Wilson  
Karen Galipeau  
Joseph McColeman  
Carolyn Thain

5. This by-law shall come into full force and effect upon passage.

**Read and Passed in Open Council** this 9th day of September, 2014

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



## **SCHEDULE “A” to By-law 2014-205**

### **Terms of Reference City of Greater Sudbury Municipal Election Compliance Audit Committee**

#### **Mandate:**

Required under Section 81.1 of the *Municipal Elections Act, 1996* as amended, the Municipal Election Compliance Audit Committee considers applications for a compliance audit related to elections for the Council of the City of Greater Sudbury, and for those School Board zones/areas from the School Boards for which the City of Greater Sudbury is conducting the School Board election (listed below) and which Boards have entered into an agreement with the City of Greater Sudbury in regards to their use of the City of Greater Sudbury Election Compliance Audit Committee:

- Conseil scolaire catholique du Nouvel-Ontario
- Conseil scolaire public du Grand Nord de l’Ontario
- Rainbow District School Board
- Sudbury Catholic District School Board

#### **Primary Objectives:**

The powers and functions of the Municipal Election Compliance Audit Committee are set out in detail in Section 81 of the *Municipal Elections Act, 1996*, as amended and can be summarized as follows:

- Consider a compliance audit application received from an elector and decide if that application should be granted or rejected
- If the application is granted, appoint an auditor whose qualifications, duties and powers are as set out in the Act
- Receive and consider the auditor’s report
- If the auditor’s report concludes that the candidate appears to have contravened the Act related to election campaign finances the Committee may decide to commence legal proceedings against the candidate with the apparent contravention
- If there were no apparent contraventions and if the Committee has found that there appears to have been no reasonable grounds for making the application, the Committee may recommend recovery of the costs of conducting the compliance audit, from the applicant, by the Council or Board.

**Membership:**

The Committee is composed of four members, three of whom are required to be in attendance for the purposes of quorum, each of whom should have:

- Experience in receiving and understanding financial information;
- Understanding of the role and responsibilities of the Committee;
- Analytical and decision making skills, with emphasis on the ability to work under pressure;
- Experience working on a committee, task force, tribunal, disciplinary panel or similar body;
- Excellent writing and oral communication skills.

The Committee shall not include:

- Employees or officers of the municipality and local School Boards
- Members of Council and local School Boards
- Any persons who are candidates in the elections for Council and School Boards or who have worked on the campaigns of any such candidates

**Time Commitment:**

The Committee will be required to adhere to the timelines established in the *Municipal Elections Act, 1996*, as amended.

The Committee will meet only if an application for a Compliance Audit in the approved format has been received from an eligible elector, within the time periods outlined in the *Municipal Elections Act, 1996*. The time required from members will depend on the decisions made by the Committee with regard to granting of an application and/or receipt of the audit report.

**Remuneration:**

Because the Committee is a decision making body and members will be working in their professional capacity, a per diem of \$200 will be paid for attendance at each meeting.

**Term:**

In accordance with Section 81.1(3) of the Act, the Committee has the same term of office as the Council that takes office following the election and members are appointed by the Council of the City of Greater Sudbury for that term.