

Clause 16 in Report No. 16 of Committee of the Whole was adopted by the Council of The Regional Municipality of York at its meeting held on November 16, 2017 with the following amendment to recommendation 4:

4. Staff be directed to report back on the viability *and options for* implementing a municipal election contribution rebate program.

16
2018 Municipal Election

Committee of the Whole recommends adoption of the following recommendations, as *amended*, contained in the report dated October 3, 2017 from the Commissioner of Corporate Services:

1. Council approve the attached policy regarding the use of municipal resources during the campaign period.
2. Council approve the attached Municipal Election Recount Policy.
3. The Regional Clerk be given authority to establish and appoint members to the Joint Election Compliance Audit Committee.
4. *Staff be directed to report back on the viability of implementing a municipal election contribution rebate program.*

Report dated October 3, 2017 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council approve the attached policy regarding the use of municipal resources during the campaign period.
2. Council approve the attached Municipal Election Recount Policy.

3. The Regional Clerk be given authority to establish and appoint members to the Joint Election Compliance Audit Committee.

2. Purpose

This report provides information on the 2018 Municipal Election of the Regional Chair and seeks approval for associated policies and authority for the Regional Clerk to establish and appoint members to the Joint Election Compliance Audit Committee.

3. Background

The 2018 Municipal Election is the first election in which the Chair will be elected by general vote

The *Building Ontario Up for Everyone Act (Budget Measures), 2016* came into force in December 2016 and requires that all regional Chairs must be elected by a general vote. Election Day is October 22, 2018.

Previously, York Region's Chair was elected by the members of Council. Municipal Clerks have the statutory responsibility to run regular elections and by-elections and have broad powers to establish procedures they deem necessary

The next Municipal Election will be held on October 22, 2018. Pursuant to section 11 of *the Municipal Elections Act, 1996* in Ontario the Clerks are responsible for conducting the municipal and school board elections within their municipalities. Additionally, the Clerk has been invested with the legislative authority to provide for any matter or procedure that is not otherwise provided for in an Act or regulation and, in the clerk's opinion, is necessary or desirable for conducting the election.

Local municipal clerks act as the returning officer for all aspects of their local and school board elections

The local municipal Clerks will do the majority of the work required for the Regional Chair election. The following list highlights some of their major tasks:

- Deciding on voting method (i.e. electronic, internet, telephone, mail, etc.)
- Setting up polling locations and advance polls
- Hiring and training polling staff
- Printing voters' lists and voter identification cards
- Printing ballots

- Running school board elections
- Managing proxy voting
- Registering third party advertisers

The Regional Clerk is the returning officer for the Regional Chair election

The Regional Clerk has a number of responsibilities related to the Regional Chair election. Some of these are highlighted below:

- Creating a policy regarding the use of regional resources during a campaign period
- Issuing statutory notices and advertisements for nomination period
- Processing Regional Chair candidates' nomination papers
- Determining Regional Chair candidates' campaign expense limits
- Developing an elections communications plan
- Establishing and submitting a report to the election compliance audit committee
- Certifying the results of the votes for Regional Chair
- Processing financial statements following the campaign period

4. Analysis and Implications

Before May 1, 2018, the Region must establish a policy on the use of municipal resources during the campaign period

Section 88.18 of the *Municipal Elections Act* requires a municipality to enact a policy governing the use of municipal resources during the election campaign period. This policy provides guidance to staff, registered third parties, candidates and members of the public regarding the use of Regional facilities and resources for campaigning and campaign related activities. This ensures a balance between political expression and the right to unobstructed use, operation and enjoyment of Regional facilities for non-political purposes.

The proposed policy is included as Attachment 1 to this report. The policy is not intended to preclude a Member of Council from performing their Council duties, nor inhibit them from representing the interests of the constituents who elected them. All municipalities must have a policy of this kind in place prior to May 1, 2018.

Municipalities may also adopt a policy on when to trigger a vote recount

Municipalities are now permitted to establish a policy to require an automatic recount when the results fall within a defined threshold. A recount may only be conducted in the same manner that was used on Voting Day and must be completed within a 15-day period that starts after the results have been declared by the Clerk. Historically, automatic recounts were only conducted where the Clerk was unable to declare a candidate elected because of a tie vote.

The adoption of a recount policy does not restrict the power of Council or the Minister of Municipal Affairs to order a recount and it does not affect an elector's right to seek a recount from the Superior Court of Justice.

Should Council decide to adopt such a policy, it is best to build in a certain degree of flexibility to determine if the recount is desirable. The proposed policy outlined in Attachment 2, proposes when a successful candidate is separated by 25 or fewer votes from the next closest candidate the Regional Clerk will report to Council with options for holding a recount. This will allow Council to retain control and discretion over the process and does not preclude Council from ordering a recount in any other circumstances.

A municipality must establish a Compliance Audit Committee prior to October 1, 2018 and staff is seeking delegated authority to work with the local municipalities to appoint a Joint Committee

The *Municipal Elections Act* requires each municipality to establish a compliance audit committee. The committee is responsible for considering applications from eligible electors that believe, on reasonable grounds, that a candidate has contravened a provision of the Act relating to election campaign finances. A compliance audit committee can:

- consider requests for audits of campaign finances;
- appoint an auditor to commission a report if the committee grants a request for an audit
- consider that auditor's report and choose whether or not legal proceedings should be commenced against the candidate.

For the 2014 Municipal Election all the local municipalities except the City of Markham participated in a Joint Compliance Audit Committee ("JCAC"). The JCAC permitted the participating municipalities to share the overall costs of recruiting committee members and the initial retainer paid to committee members. For the 2018 Municipal Election, all the local municipalities have expressed interest in participating in the JCAC. Regional staff are requesting the

delegated authority to participate in that process. Delegating this authority to staff supports the independence of the Compliance Audit Committee.

Campaign finance rules and contribution limits have been changed.

Previously, any corporation or trade union in Ontario was eligible to make contributions. Such contributions are now ineligible and the new provisions of the *Municipal Elections Act* only permit contributions from individuals who are residents of Ontario and the candidate or his / her spouse. Other changes to the campaign finance rules include:

- Candidates who do not accept any contributions of money or incur any expenses will no longer be required to open a campaign bank account;
- Contribution limits have been changed from \$750 to a total of \$1,200 to any one candidate in an election.
- Anonymous and cash contributions are now capped at \$25, an increase from the former limit of \$10.

The Regional Clerk determines the campaign spending limit for Regional Chair. The spending limit is calculated by adding together \$7,500 plus \$0.85 for each elector entitled to vote for the office. Based on the number of electors in 2014, the spending limit for 2018 is likely to be around \$600,000 with the final amount to be set once the actual number of eligible electors is known.

Third party advertisers will be able to campaign during the 2018 Municipal Election

The *Municipal Elections Act* now includes provisions on third party advertisers. A third party advertisement is a message in any medium (billboard, newspaper, radio, etc.) that supports or opposes a candidate or a “yes” or “no” vote on a question on the ballot. Third party advertising must be done independently of candidates, who are not able to direct a third party advertiser.

Individuals, corporations and unions can register as third party advertisers and may solicit contributions to use toward their campaign. Third party advertisers must register with one or more local municipalities to campaign. A third party advertiser must register in all nine local municipalities to conduct a Region-wide campaign.

Staff are working with the local municipalities to determine the best way to identify registered third party advertisers' signs. This helps to ensure that third party advertisers' signs are compliant with relevant sign bylaws in the same way as for registered candidates.

Most campaign finance rules that apply to candidates also apply to third party advertisers.

Registered third party advertisers must comply with a number of campaign financing rules including ensuring:

- All contributions and expenses flow through a campaign account established by the third party for the election
- All funds in the campaign account are used for the purpose of the election campaign
- Proper records are kept of contributions
- Proper valuations are made of any goods or services received by candidates

Municipal councils may establish rebate programs to reimburse contributions made to candidates

The *Municipal Act* provides that municipalities may enact a bylaw to allow for payment of rebates to individuals that make contributions to election candidates. Municipalities that establish contribution rebate programs determine the conditions of entitlement and fund the programs through the municipal tax base. As well as the cost of the actual rebates, municipalities also incur costs associated with administering these programs.

Table 1 provides an overview of existing contribution rebate programs in Ontario.

Table 1
Municipal Contribution Rebate Programs

Municipality	Funding Formula	# of Candidates to Use Program	2014 Cost Per Elector
Ajax	75% of the contribution to a max of \$200	10 (48%)	\$0.16
Markham	75% of the contribution to a max of \$350	44 (86%)	\$2.79
Mississauga	25% of the contribution to a max of \$150	New Program	New Program
Oakville	50% of the contribution to a max of \$375	22 (48%)	\$0.32
Ottawa	50% of the contribution to a max of \$75	117 (79%)	\$0.17
Toronto	50-75% of the contribution to a max of \$1,000	181 (43%)	\$2.20
Vaughan	75% of the contribution to a max of \$150	28 (90%)	\$0.26
Whitby	25% of the contribution to a max of \$150	12 (34%)	\$0.04

There has been very little academic research conducted on the benefits and challenges associated with municipal rebate programs.

To date, only eight of Ontario's 444 municipalities have adopted rebate programs. Some programs, such as the one in Markham, were established to encourage non-incumbents and women to run for municipal office and also to reduce the number of contributions from developers.

A February 6, 2017 report to Markham's General Committee indicated there is no conclusive data to support that the City's contribution rebate program met its intended policy objectives.

Additionally, recent changes to the *Municipal Elections Act* mean that corporations and trade unions can no longer contribute to candidates' campaigns.

Should Council decide to establish a contribution rebate program, funds will need to be allocated in the 2018/2019 budget to cover the associated costs. The total cost of such a program depends on the rebate formula, the number of candidates and the amount and number of contributions. Council will also need to consider whether the program should also apply to contributions to third party advertisers.

Council has until February 20, 2018 to give notice of its intent to place a question on the ballot

The *Municipal Elections Act* permits municipalities to place a question on the ballot subject to the following rules:

1. It concerns a matter in the jurisdiction of the municipality
2. It is not a matter of “provincial interest”
3. It must be clear and concise
4. It must be capable of a yes or no answer

Before a question can appear on the ballot, Council must hold at least one public hearing on the matter. Following that meeting, it must provide notice of its intent to pass a bylaw to submit a ballot question by February 20, 2018 and the bylaw must be approved by March 1, 2018.

If Council wishes to further consider a ballot question staff can report back with the detailed rules regarding the process.

5. Financial Considerations

The 2018 Regional Chair Election could have significant financial implications depending on circumstances and policy decisions

The known expenditures for the 2018 Municipal Election are estimated to be \$30,000. These relate to issuing statutory notices, development of election-related materials and the compliance audit committee. These costs can be accommodated within the anticipated 2018 budget.

There are also a number of unpredictable costs to consider. These include the number of detailed audits ordered by the compliance audit committee and the need for a recount. An election contribution rebate program, if approved, would also represent an unforeseen cost. The following chart provides an overview of the cost estimates for these items:

Figure 2
Estimate of 2018 Municipal Election Expenses

Item	Forecasted Costs
General Election Expenses	\$30,000
Potential Additional Costs	
Recount	\$50,000
Detailed Audit of Financial Statements	\$80,000 each
Rebate Program	\$600,000

6. Local Municipal Impact

The Regional Chair election impacts each of the local Clerks who are responsible for carrying out the 2018 Municipal Election. The impacts are generally minimal but the Regional Clerk’s Office will need to coordinate and communicate with each of the local Clerks to ensure the success of the Regional Chair election. This work has already started and will continue through to Election Day and the end of the campaign period.

7. Conclusion

The first general election of York Region’s Chair will happen in 2018. Consequently, the Region will have a role and certain responsibilities related to the 2018 Municipal Election. The Region is required to have a policy to govern the use of municipal resources during a campaign period and is required to establish a compliance audit committee. A recount policy is optional although staff recommends adopting a policy to provide certainty on when staff will report back on the merits of a recount and Council would still retain its discretion to order a recount.

The Region can consider, but is not required to have, a contribution rebate program. Such programs are not widely used by Ontario municipalities and will have financial implications for the Region.

Council may place a question on the ballot. If it wishes to do so then the statutory consultation process must be completed by March 1, 2018.

2018 Municipal Election

For more information on this report, please contact Christopher Raynor, Regional Clerk at 1-877-464-9675 ext. 71300

The Senior Management Group has reviewed this report.

October 3, 2017

Attachments (2)

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Accessible formats or communication supports are available upon request



Status: **Final / Archived (select one)**
Approved By: **Council**

The Regional Municipality of York
Use of Regional Resources for Election Purposes

Policy No.:

Original Approval Date: (Date of Council)

Policy Last Updated: (Only if updated after original Council)

Policy Statement:

Section 88(4) of the *Municipal Elections Act* prohibits a municipality from making contributions towards the promotion of or opposition to the candidacy of a person for elected office in any form. This includes assets, resources, services and employees,

Application:

This policy is applicable to all Candidates running for a seat on Regional Council, Members of Regional Council, Registered Third Parties and Region Employees.

Nothing in this policy shall preclude a Member of Council from performing their duty as it relates to sitting on Regional Council, nor inhibits them from representing the interests of their constituents.

Nothing in this policy would preclude any candidate from undertaking lawful campaign activities as permitted under the *Municipal Elections Act* at properties operated by Housing York Inc. and as outlined in the Electioneering in Regional Long-Term Care Facilities Policy.

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Purpose:

This policy clarifies that all election Candidates, members of Regional Council, Registered Third Parties and Region Employees must follow the provisions of the Act regarding the use of corporate resources for election purposes. This ensures that all candidates are treated fairly and consistently, preserves the integrity of the electoral process and ensures a fair and unbiased election.

Definitions:

Term:

“Act” means the *Municipal Elections Act, 1996*, as amended, and includes any regulation made there-under.

“Campaigning” means a municipal election-related activity for the purpose of supporting or opposing the election of a Candidate or a question on the ballot.

“Campaign-related materials” means those materials that promote or oppose the candidacy of a person for elected office.

“Candidate” means a person who is running for office in a municipal election, nominated under Section 33 of the Act.

“Employees” includes full-time, part-time, and contract employees, paid by the Regional Municipality of York.

“Registered Third Party” means an individual, corporation or trade union that is registered with a local municipality under s. 88.6 of the Act.

Description:

Facility-Related Provisions

1. No person shall use the Region’s facilities, equipment, supplies, services, Employees or other corporate resources for any election campaign or campaign-related activities.
2. No person shall undertake campaign-related activities on Region owned or leased property.
3. No campaign signs or material may be displayed in any Region owned or operated facilities

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4. No person shall campaign and/or distribute campaign-related materials during any event hosted by the Region, whether on Region property or not.

Communication-Related Provisions

5. Photographs and videos produced for and/or owned by York Region shall not be used by Candidates, Members of Regional Council, Registered Third Parties or Employees for any election purposes.
6. The Region's logo, brand and other marks, including the chain of office, shall not be used in any campaigning or included on any election campaign-related website, except in the case of a link to the Region's website to obtain information about the municipal election or sharing Regional program/service information.
7. The Region's voicemail system shall not be used to record Campaigning messages.
8. Web sites, domain names and social media sites that are funded, owned, or operated by York Region shall not include any election-related campaign material other than non-partisan election information material that is required for the proper administration of the election under the Act, and subject to the approval of the Regional Clerk
9. The Region's communication materials, whether for internal or public distribution, shall not, unless otherwise sanctioned by the Regional Clerk:
 - a. Profile (name or photograph), make reference to and/or identify any individual as a candidate.
 - b. Advocate for or against a particular candidate.
10. Candidates, Members of Regional Council, Registered Third Parties and Employees shall not print, reproduce, or distribute any election-related material using municipal funds or resources.

Technology-Related Provisions

11. Candidates, Members of Regional Council, Registered Third Parties and Employees shall not use Regional devices for any election-related purposes including computers, cell/smart phones, tablets, printers, scanners, photocopiers, email, social media accounts, telephone system including the voice mail system, network and file storage.

Employee Involvement in Elections

Regional employees may participate in election-related activities provided that:

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12. Any political involvement does not interfere with the Employee's ability to perform his or her corporate duties objectively.
13. Employees do not engage in any political activity during working hours, or use the Region's assets, resources, services or property.
14. Employees do not identify themselves as Regional Employees when engaged in political activity (for example, employees shall not wear clothing with the Region's logo while canvassing for a candidate).
15. Employees do not use their official authority or influence for the purpose of interfering with or affecting the result of an election, nor use their official title while participating in otherwise permissible political activities.

Non-Compliance with Policy:

Candidates, Registered Third Parties and/or members of the public who are found to have contravened this policy may be guilty of an offence under the *Municipal Elections Act* and could be subject to the penalties contained therein or other related sanctions.

Contravention of this policy by a Regional Employee may constitute a breach of the Employee Code of Conduct and could therefore be subject to disciplinary measures up to and including dismissal.

All suspected violations will be investigated and dealt with accordingly.

Reference:

Municipal Elections Act, 1996

Employee Code of Conduct

Electioneering in Regional Long-Term Care Facilities Policy

Contact:

Regional Clerk, Clerk's Office, Corporate Services, ext. 71300

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Approval Information:

Council Approval Date: [REDACTED]	Committee Name: [REDACTED]
Council Minute No.: [REDACTED]	Report No.: [REDACTED]
Extract eDOCS #: [REDACTED]	Clause No.: [REDACTED]

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Status: **Final / Archived (select one)**
Approved By: **Council / CAO (select one)**

The Regional Municipality of York

Municipal Election Recount Policy

Policy No.:

Original Approval Date: (Date of Council or CAO approval)

Policy Last Updated: (Only if updated after original Council or CAO approval)

Policy Statement:

Section 56(3) of the Municipal Elections Act sets out that a municipality may, by by-law, adopt a policy with respect to the circumstances in which the municipality requires the Clerk to hold a recount of the votes cast in an election.

Application:

This policy only applies to an election conducted for the office of the Regional Chair.

Purpose:

This policy establishes the situation in which the Regional Clerk will automatically bring a report to Council outlining options for conducting a recount in accordance with Section 56(1.1) of the Municipal Elections Act.

Definitions:

Not applicable

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Description:

At the final meeting of the outgoing Council after a municipal election, the Regional Clerk shall report to Council on the merits of conducting a recount, and the process for conducting the recount, where the successful candidate for Regional Chair is separated from the next closest candidate by 25 or fewer votes.

Nothing in this policy precludes Council from ordering the Regional Clerk to conduct a recount of the Regional Chair election in any other circumstances.

Reference:

Municipal Elections Act, 1996

Contact:

Regional Clerk, Clerk's Office, Corporate Services, ext. 71300

Approval Information:

Council Approval Date: [REDACTED]	Committee Name: [REDACTED]
Council Minute No.: [REDACTED]	Report No.: [REDACTED]
Extract eDOCS #: [REDACTED]	Clause No.: [REDACTED]

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