



Hamilton

Election Compliance Audit Committee

MINUTES 23-001

Thursday, May 11, 2023

9:30 a.m.

Council Chambers

Hamilton City Hall

71 Main Street West

Present: C. DiFalco (Chair), L. Lister (Vice-Chair), V. Saunders and J. van der Heiden

**Absent with
Regrets:** Z. Spicer

Also Present: S. Applebee, Solicitor (virtually)
A. Holland, City Clerk
A. Leadbetter, Manager Print, Mail and Elections

1. Appointment of Chair

(Saunders/Lister)

That C. DiFalco be appointed as Chair of the Election Compliance Audit Committee for the 2022-2026 Term of Council.

CARRIED

2. Appointment of Vice-Chair

(van der Heiden/Saunders)

That L. Lister be appointed as Vice-Chair of the Election Compliance Audit Committee for the 2018-2022 Term of Council.

CARRIED

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

(van der Heiden/Lister)

That the Agenda for the May 11, 2023 Elections Audit Compliance Committee, be approved as presented.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) CONSIDERATION OF APPLICATIONS (Item 8)

The procedure that the Committee will follow for each of the Applications for Election Compliance Audit being considered at today's meeting is as follows:

The Applicant, or the Applicant's agent, will be given an opportunity to address the Committee. Members of the Committee may, through the Chair, ask questions of the Applicant. The Candidate shall be permitted to view any documents submitted by the Applicant.

The Candidate, or the Candidate's agent, will be given an opportunity to address the Committee. The Candidate may respond to the content of the Applicant's address to the Committee. Members of the Committee may, through the Chair, ask questions of the Applicant. The Applicant shall be permitted to view any documents submitted by the Candidate.

Following the presentations, the members of the Committee shall each have an opportunity to speak to the matter and may retire to deliberate in private before rendering a decision.

The decision of the Committee, whether granting or refusing an Application, shall be in writing, shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. In addition to the written decision, nothing shall prevent the Committee from delivering an oral decision at the meeting. The Clerk shall forward notice of the decision of the Committee to the Applicant and the Candidate at the email addresses provided to the Clerk.

If the Committee decides to grant the application, it shall appoint an auditor, licensed under the *Public Accounting Act, 2004*, to conduct a compliance audit of the election campaign finances of the candidate.

(i) Pascale Marchand submitting an Application for Election Compliance Audit respecting the Campaign Finances of Cindy Kennedy, Candidate for City Councillor, Ward 4

On April 4, 2023, Pascale Marchand (the Applicant) submitted an Application for Election Compliance Audit respecting the election campaign finances of Cindy Kennedy (the Candidate) for the Municipal Election of October 24, 2022.

The Chair made the following opening statement:

This Election Compliance Audit Committee meeting has been convened pursuant to Section 88.33(7) of the *Municipal Elections Act, 1996, as amended*, to consider a Compliance Audit Application by Pascale Marchand respecting the election campaign finances of Cindy Kennedy, Candidate for City Councillor, Ward 4, for the Municipal Election of October 24, 2022.

As per the Procedures for the Election Compliance Audit Committee, where a meeting of the Committee is required to consider an Application for Election Compliance Audit, the Clerk shall give reasonable notice to the Applicant and the Candidate of the time, place and purpose of a meeting and of the fact that if any party fails to attend the meeting, the Committee may proceed in the party's absence and the party will not be entitled to further notice in relation to the meeting. The Clerk shall also circulate the agenda including a copy of the application, the financial statements of the Candidate, materials and any written submissions, to the Committee, Applicant, Candidate and Auditor, where applicable, within 10 days after receiving the application.

Notice was provided to all respective Applicants and Candidates by email on April 25, 2023.

The Chair invited the Applicant and Candidate and any agents attending on their behalf to identify themselves.

The Applicant outlined their reasons for submitting the application which included, but were not limited to, the following:

- The Candidate has likely contravened subsection 88.25, Candidates' financial statements and subsection 92(1) Offences re campaign finances of the *Municipal Elections Act, 1996, as amended*, related to the filing of the Financial Statement – Form 4 as they failed to include relevant donations and campaign related expenses.
- The Candidate reported on the Financial Statement – Form 4 that they did not accept any contributions or incur any expenses, however, the Candidate had lawn signs during the election campaign, which would constitute an expense for an election campaign as per the subsection 88.19 of the *Municipal Elections Act, 1996, as amended*.

Committee members asked questions of the Applicant for further clarification of the matter.

The Candidate provided submissions which included, but were not limited to, the following:

- The Candidate explained that the submitted Financial Statement – Form 4 did not reflect income and expenses as the Candidate thought that because the event held did not make any money that completion of the sections reflecting income and expenses on the Financial Statement – Form 4 was not necessary.
- The Candidate submitted a listing of expenses incurred during the campaign for the review of Committee.
- The Candidate apologized for not properly completing the required information on the Financial Statement – Form 4.

Committee members asked questions of the Candidate for further clarification of the matter.

(van der Heiden/Lister)

That the Committee deliberate in private, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures and subsections 88.33(5.1), 88.34(9.1), 88.35(4) and 88.36(6.1) of the *Municipal Elections Act, 1996, as amended*.

CARRIED

(van der Heiden/Lister)

That the Committee rise from private deliberation without delivering an oral decision and shall provide the decision of the Committee in writing.

CARRIED

(d) ADJOURNMENT (Item 5)

(van der Heiden/Saunders)

That the meeting of the Election Compliance Audit Committee be adjourned at 11:34 a.m.

CARRIED

Respectfully submitted,

Cal DiFalco, Chair
Election Compliance Audit
Committee

Carrie McIntosh
Legislative Coordinator
Office of the City Clerk