



Hamilton

Election Compliance Audit Committee

MINUTES 23-002

Friday, June 16, 2023

10:00 a.m.

Room 192/193

Hamilton City Hall

71 Main Street West

Present: J. van der Heiden (Acting Chair), V. Saunders, Z. Spicer

**Absent with
Regrets:** C. DiFalco (Chair), L. Lister (Vice-Chair)

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

1. Appointment of Acting Chair

(Saunders/Spicer)

That J. van der Heiden be appointed as Acting Chair of the Election Compliance Audit Committee for the June 16, 2023 meeting.

CARRIED

FOR INFORMATION:

(a) APPROVAL OF AGENDA (Item 2)

(Saunders/Spicer)

That the Agenda for the June 16, 2023 Elections Audit Compliance Committee, be approved as presented.

CARRIED

(b) DECLARATIONS OF INTEREST (Item 3)

There were no declarations of interest.

(c) **ADOPTION OF MINUTES OF PREVIOUS MEETING (Item 4)**

(i) **May 11, 2023 (Item 4.1)**

(Saunders/Spicer)

That the minutes of the May 11, 2023 meeting of the Election Compliance Audit Committee be approved, as presented.

CARRIED

(d) **ITEMS FOR DISCUSSION (Item 7)**

(i) **CONSIDERATION OF CLERK'S REPORTS RESPECTING CONTRIBUTORS WHO APPEAR TO HAVE CONTRAVENED THE CONTRIBUTION LIMITS UNDER SECTION 88.9 (1) & (4) OF THE MUNICIPAL ELECTIONS ACT (Item 7.2)**

The Chair made the following opening statement:

This Election Compliance Audit Committee meeting has been convened pursuant to Section 88.34 (8) of the *Municipal Elections Act, 1996*, to consider the matter of the Clerk's Reports respecting Contributors who appear to have exceeded the maximum allowable contribution limits to any one candidate or two or more candidates in an election.

Notice was provided to all respective Contributors on May 26th by Registered Mail and to all respective Candidates on May 26th by Email.

The decisions of the Committee, will be in writing, and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. If warranted the members, in addition to the written decision, may deliver an oral decision at the meeting. Once the Committee has made their decision, the Clerk will forward the notice of the Committee's decision to the Contributors at the mailing addresses provided to the Clerk.

(1) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Annie Seketa (FCS23066) (City Wide) (Item 7.2 (a))

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

Neither the Contributor nor the Candidate were present at the meeting of the Committee, however, the Committee received a written submission from the Candidate on behalf of her mother, the Contributor. The written submission states that the Contributor's total contribution was \$1,200 rather than \$1,500 as reflected on the Candidate's Financial Statement and that the Candidate made a clerical error when completing the Financial Statement.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Annie Seketa (FCS23066) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(2) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* - Anthony Puddu (FCS23067) (City Wide) (Item 7.2(b))

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

Both the Candidate and the Contributor were present.

The Contributor advised the Committee that he provided unpaid labour to the campaign of his mother, the Candidate, and that he was not paid for the video services he provided to the Candidate.

The Candidate advised that funds were misallocated in her financial statement and apologized for the error.

The Committee also received a written submission and supporting documentation from the Candidate. The written submission from the Candidate states that the Candidate misallocated funds in her financial statement by attributing the payment for a purchase of marking materials from VistaPrint in the amount of \$319.71 to the Contributor when in fact the materials were paid for through the Candidate's account. The written submission also indicated that an in-kind contribution valued at \$1,000 for video work was also attributed to the Contributor. The submission confirmed that no payment was made to the Contributor for the in-kind contribution, that no invoices were generated, and that the Contributor's direct financial contribution to the Campaign was \$0.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Anthony Puddu (FCS23067) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures

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

(3) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Cornell Performance Academy (FCS23068) (City Wide) (Item 7.2(c))

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

The Candidate was present at the meeting and testified that she is a fifty percent co-owner of the Contributor's business. The Candidate provided written evidence in the form of invoices totaling \$1999.75: one from Premier Printing & Signs Ltd. in the amount of \$237 for signs; one from Premier Printing & Signs Ltd. in the amount of \$412.45 for signs and installation of outdoor/indoor signage; and one from Cornell Performance Academy in the amount of \$1,350. The receipts indicate that the Candidate's business paid for the expenses which should have been attributed to the Candidate and reflected as such on the Candidate's Financial Statement.

(Spicer/Saunders)

That the receipts provided by the candidate from Premier Printing & Signs Ltd. in the amount of \$237 for signs; from Premier Printing & Signs Ltd. in the amount of \$412.45 for signs and installation of outdoor/indoor signage; and from Cornell Performance Academy in the amount of \$1,350, be received as an evidence submission.

CARRIED

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Cornell Performance Academy (FCS23068) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(4) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the *Municipal Elections Act* – Darivoj Vranich (FCS23069) (City Wide) (Item 7.2(d))

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

The Contributor was not present. One Candidate, Laura Farr, was present.

No written submission had been provided by the Contributor in advance of the meeting.

(Spicer/Saunders)

That the consideration with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Darivoj Vranich (FCS23069) (City Wide), be deferred until after the consideration of Item 7.2(i) on the Agenda, to provide the Contributor with further opportunity to attend the meeting.

CARRIED

When the Clerk's Report respecting Darivoj Vranich was again called by the Chair, following consideration of Item 7.2(i) on the Agenda, the Contributor was not present before the Committee.

The Candidate, who was present at the meeting, advised the Committee that it is best practice to notify Contributors to the Campaign of the contribution limits and was unaware of contributions to other Candidates.

(Spicer/Saunders)

That the deliberations with respect to Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Darivoj Vranich (FCS23069) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(5) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Paul Maxwell (FCS23070) (City Wide) (Item 7.2(e))

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

The Candidate was present at the meeting. The Contributor was not present at the meeting.

The Candidate advised the Committee that the contribution in question was incorrectly listed as a contribution of goods and services on her Financial Statement. The Candidate provided a receipt in the amount

of \$1,500 from the Contributor's business – Two Foot Films - as evidence that the Candidate was billed for and paid for film services provided by the Contributor, which should have been reflected as a contribution of the Candidate on her Financial Statement.

(Spicer/Saunders)

That the receipt provided by the Candidate in the amount of \$1,500 from the Contributor's business – Two Foot Films – be received as an evidence submission.

CARRIED

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Paul Maxwell (FCS23070) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(6) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sam Mercanti (FCS23071) (City Wide) (Item 7.2(f))

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

The Contributor was present at the meeting of the Committee with his daughter who handles his accounting. One Candidate, Sonia Brown, was also present at the meeting of the Committee.

The Contributor advised the Committee that he was unaware of the maximum contribution limits as set forth in Section 88.9 (4) of the Act. The Contributor apologized and assured the Committee that the error would not be made again. The Contributor also advised the Committee that he believed that he personally made contributions totaling \$3,200 from a joint account held by himself and his wife Roma, and that his wife Roma made contributions which totaled \$2,500 from that joint account. During the Meeting the Committee requested, and the Contributor undertook to provide, documentation to support this position.

(Spicer/Saunders)

That the documentation provided by the Contributor respecting contributions made by the Contributor and his wife, be received as an evidence submission.

CARRIED

The Candidate advised the Committee that she did notify Contributors to the Campaign of the contribution limits and was unaware of contributions to other Candidates.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sam Mercanti (FCS23071) (City Wide) be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(7) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sergio Manchia (FCS23072) (City Wide) (Item 7.2(g))

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

The Contributor's Agent (the "Agent"), Patrick Mc Ilhone, Gowling WLG, was present to represent the Contributor at the meeting of the Committee. The Contributor was unable to attend in person. One Candidate, Laura Farr was also present at the meeting of the Committee.

The Agent advised the Committee that the Contributor inadvertently believed that the maximum contribution limit was \$5,500 rather than \$5,000 to two or more candidates for office on the same council and assured the Committee that the Contributor would note the correct limit in the future. The Agent requested that, given the minor nature of the overcontribution, no further action be taken against the Contributor and suggested that the overcontribution does not rise to a level that warrants punishment. When asked by the Committee whether this was the first alleged overcontribution made by the Contributor, the Agent confirmed that the Contributor was the subject of a Clerk's Report arising from contributions made during the 2018 municipal election and that the Contributor was brought before the committee for an overcontribution. In that case, the Committee accepted the Contributor's apology for the \$350 over contribution and chose not to commence legal proceedings.

The Candidate advised the Committee that it is best practice to notify Contributors of the contribution limits, but could not say with certainty

that she advised this Contributor of those limits. The Candidate also advised the Committee that she was unaware of contributions made by the Contributor to other Candidates.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Sergio Manchia (FCS23072) (City Wide) be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(8) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Silvio Guglietti (FCS23073) (City Wide) (Item 7.2(h))

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

The Contributor's Agent (the "Agent"), Jeffrey Manishen, Ross & McBride, was present to represent the Contributor at the meeting of the Committee. The Contributor was not present in person, nor were any of the Candidates.

The Committee received a written submission from the Agent on behalf of the Contributor. The Committee also received a written statement prepared by Patrizia Guglietti, the Contributor's wife.

(Saunders/Spicer)

That the written submission provided by the Agent on behalf of the Contributor, Silvio Guglietti and the written statement prepared by the Contributor's wife, Patrizia Guglietti, be received as evidence submissions.

CARRIED

The Agent advised the Committee that Patrizia Guglietti made a single contribution to the campaign of Andrea Horwath in the amount of \$1,200, as confirmed by her statement and provision of the image of the cheque which shows Patrizia's unique signature. This contribution was mistakenly reflected as a contribution by the Contributor in the Financial Statement of Andrea Horwath. The Agent further advised that the Contributor made contributions to the Campaigns of various candidates, as evidenced by copies of his cheques with his unique signature, which totaled \$4,000. As such, the Contributor did not exceed the maximum contribution limits under the Act.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Silvio Guglietti (FCS23073) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(9) Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Scott Vallance (FCS23077) (City Wide) (Item 7.2(i))

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

The Contributor was present at the meeting of the Committee. The Candidate was not present at the meeting.

The Contributor advised the Committee that he developed a website for the Candidate's campaign at an estimated cost of approximately \$200. The Contributor further testified that he did not issue an invoice or receive a receipt from the Candidate.

(Spicer/Saunders)

That the deliberations with respect Contributors who Appear to have Contravened the Contribution Limits under Section 88.9 of the Municipal Elections Act – Scott Vallance (FCS23077) (City Wide), be deferred to a private session of the committee, which will be held after all matters on the Agenda have been heard, pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(e) PRIVATE AND CONFIDENTIAL (Item 8)

(i) May 11, 2023 - Private Deliberation Minutes (Item 8.1)

(Spicer/Saunders)

That the May 11, 2023 – Private Deliberation Minutes, be deferred to a future meeting of the Committee.

CARRIED

(ii) **Deliberations in Private Session**

(Spicer/Saunders)

That the Committee deliberate in private pursuant to subsection 12.10(5) of the Election Compliance Audit Committee Procedures 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

(f) **ADJOURNMENT (Item 9)**

(Spicer/Saunders)

That the meeting of the Election Compliance Audit Committee be adjourned at 10:54 a.m.

CARRIED

Respectfully submitted,

J. van der Heiden, Acting Chair
Election Compliance Audit
Committee

Carrie McIntosh
Legislative Coordinator
Office of the City Clerk