

## 2020 Local Government Election - Disclosure of Campaign Contributions and Expenses for Mayor and Councillor Candidates

### ISSUE

Bylaw 8491, *The Campaign Disclosure and Spending Limits Bylaw, 2006*, requires that each person that was nominated in accordance with *The Local Government Election Act, 2015* to be a candidate in the civic election, submit a public campaign disclosure to the Returning Officer. Disclosures for candidate for mayor are required to be completed and submitted within four months of the date of the election and candidates for councillor within three months.

The Returning Officer is required to forward to City Council, for its information, a report summarizing campaign contributions and campaign expenses of each candidate.

### BACKGROUND

The local government election, originally scheduled for Monday November 9, 2020, was held on November 13, 2020.

### CURRENT STATUS

Candidates for mayor and councillor are required to submit completed disclosure statements by the required deadline.

### DISCUSSION/ANALYSIS

Section 34 of *The Local Government Election Act, 2015* permits a Council to establish disclosure requirements respecting campaign contributions and expenses and to establish election campaign spending limits. Appendix 1, *Bylaw 8491, The Campaign Disclosure and Spending Limits Bylaw, 2006* (the bylaw), contains those provisions.

Each candidate is required pursuant to section 5 of the bylaw to complete and file a Statement of Campaign Expenses / Contributions with the Returning Officer which consists of the following:

1. Schedule A - a statutory declaration indicating total campaign contributions and total campaign expenses
2. Schedule B - a fundraising events income statement listing details of any fundraising events held and revenues received
3. Schedule C - a list of cumulative campaign contributions from contributors with names and amounts for each contributor of \$100.00 or more
4. Schedule D - a statement of campaign contributions and expenses, including a statement of auditor for candidates for mayor only

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The Returning Officer is required by section 10(3) of the bylaw to forward to City Council, for its information, a report summarizing campaign contributions and campaign expenses of each candidate (Appendix 2), with a notation for any candidate who has exceeded the spending limit and the names of any candidates who fail to file the required disclosure statements in accordance with the requirements of the bylaw. In addition, the City Clerk shall post on the City's website the Statement of Campaign Contributions and Expenses for all candidates, whether the candidate was elected or not.

The spending limit for mayoral candidates is \$229,497.92 and for councillor candidates, \$22,949.79. Statements for candidates for councillor were required to be filed by February 16, 2021 and statements for candidates for mayor, by March 15, 2021. Details of the filings made by each candidate are set out in Appendix 3.

Candidates were informed of campaign disclosure requirements and provided reminders in the following ways:

- During the Candidate Information Session, held virtually on October 5, 2020, campaign disclosure information was reviewed in detail.
- Candidates were provided a copy of the Candidate Information Guide, upon submitting nomination papers to the election office, which contained specific campaign disclosure details.
- Emails were sent from the Returning Officer to all candidates on December 7, 2020 and February 3, 2021 to remind them of their requirement to submit completed disclosure forms by the deadline.

At the time of preparing this report, the following have been noted:

- Nine (9) candidates for councillor filed their statements late (after February 16, 2021). This included one candidate that was elected.
  - Kevin Boychuk (ward 1)
  - Darren Hill (ward 1 – elected)
  - Kyla Kitzul (ward 1)
  - Elizabeth Fay (ward 3)
  - Janine Lazaro (ward 3)
  - Colin Prang (ward 3)
  - Carol Reynolds (ward 7)
  - Jim Rhode (ward 7)
  - AJ Itterman (ward 10)
- One (1) candidate for councillor has not yet filed their statement.
  - Christopher Sicotte (ward 3)
- One (1) candidate for mayor filed their statement late (after March 15, 2021).
  - Mark Zielke
- No candidate exceeded the election campaign spending limit.

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At its January 28, 2008 meeting, City Council resolved that the City Clerk be instructed to prosecute all candidates who are in breach of *The Campaign Disclosure and Spending Limits Bylaw, 2006* as of the day after the filing deadline. This maintains a fair and impartial process required when enforcing the bylaw. Following approval of the bylaw in 2006, candidates who ran in following elections and either filed their campaign disclosures late or did not file were prosecuted.

Section 24 of the bylaw states that every candidate who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000, which can continue on a per-day basis until compliance is achieved. Penalties are at the discretion of the court.

24. (1) *Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000.00 and, in the case of a continuing offence, to a further fine of not more than \$5,000.00 for each day during which the offence continues.*
- (2) *A conviction for an offence under this Bylaw does not relieve the person convicted from complying with the Bylaw and the convicting judge may, in addition to any fine imposed, order the person to do any act or work, within the time specified by the judge in the order, to comply with the provisions of this Bylaw.*
- (3) *A person to whom an order is directed pursuant to subsection (2), who fails to comply with that order within the time specified by the judge, is guilty of any offence and liable on summary conviction to a fine of not more than \$5,000.00 for each day during which the non-compliance continues.*
- (4) *If a candidate is the subject of an investigation pursuant to this Bylaw and the candidate is convicted of an offence against this Bylaw based on information obtained pursuant to the investigation, the convicting court may order, in addition to any penalty imposed pursuant to this Bylaw, that the candidate pay all or any costs of the investigation.*

In the case of an elected official who has contravened the bylaw, section 25 is applicable and establishes an additional process to be followed.

25. (1) *In addition to the penalties set out in Section 24, if a candidate who is elected contravenes any provision of this Bylaw, the candidate is disqualified from Council and shall resign immediately.*
- (2) *Notwithstanding subsection (1), where on application a judge of the Court of Queen's Bench is of the opinion that the disqualification of the candidate arose through inadvertence or by reason of an honest mistake, the candidate shall not be required to resign.*

This process is in addition to any prosecution and fines levied under section 24.

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In addition to the prosecution process described above, section 10.1 of the bylaw provides that the deposit submitted by a candidate for councillor or mayor pursuant to section 68 of *The Local Government Election Act, 2015* shall not be returned to the candidate unless the candidate has complied with the provisions of the bylaw.

### **FINANCIAL IMPLICATIONS**

As the prosecution process emerges more details will be known about any financial implications; however, any financial implications are expected to be covered under existing budgets.

### **OTHER IMPLICATIONS**

The legal implications are addressed in the body of this report.

### **NEXT STEPS**

The Returning Officer will initiate prosecution as indicated in the report for violations under section 24 of the bylaw. As the Returning Officer is afforded the authority under the bylaw there is no action required by Council.

The violation under section 25 of the bylaw requires direction and action from Council related to Councillor Hill, who was elected, failed to meet the disclosure requirements, and has not yet resigned as is required under the Bylaw.

### **APPENDICES**

1. Bylaw No. 8491, The Campaign Disclosure and Spending Limits Bylaw, 2006
2. Candidate Disclosure Summary
3. Candidate Disclosures (Complete)

### **Report Approval**

Written by: Scott Bastian, Returning Officer  
Reviewed and Approved by: Adam Tittlemore, City Clerk

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