

Staff Report

Report To: City Council

Report From: Briana Bloomfield, City Clerk

Meeting Date: March 19, 2018

Report Code: CR-18-043

Subject: Election 2018 – General Report #2

Recommendations:

That in consideration of Staff Report CR-18-043 respecting the 2018 Municipal Election, general report number 2, City Council directs staff to:

1. Bring forward a by-law to amend the Sign By-law, as outlined in the report;
2. Bring forward a by-law to amend Policy Number CrS-C39, Use of City Resources during Elections, as outlined in the report; and
3. Bring forward a by-law to delegate the authority provided by section 88.7 of the *Municipal Elections Act, 1996* respecting election advertising to By-law Enforcement, as outlined in the report.

Strategic Initiative:

Strengthening our community through sound leadership.

Background:

This is the second report being presented to Council respecting the 2018 municipal election.

Although the Clerk is responsible for conducting municipal elections, Council is the approval authority where issues require authorization by by-law. This report includes items for information and three by-laws requiring direction by Council.

Analysis:

Voting Period

The voting period for the 2018 Municipal Election will begin on October 12, 2018 at 10:00 a.m. and will close on October 22, 2018 at 8:00 p.m.

Help Centre Locations and Times

Help Centres will be provided during the voting period at the following locations, dates and times.

Location	Date(s)	Time
City Hall	Friday, Oct. 12, 2018	8:30 am – 4:30 pm
	Monday, Oct. 15, 2018 to Friday Oct. 19, 2018	8:30 am – 4:30 pm
	Monday, Oct. 22, 2018	8:30 am – 8:00 pm
Royal Canadian Legion	Saturday, Oct. 13, 2018	10:00 am – 6:00 pm
Julie McArthur Regional Recreation Centre	Sunday, Oct. 14, 2018	10:00 am – 4:00 pm
Heritage Place Mall	Saturday, Oct. 20, 2018	10:00 am – 6:00 pm
Harry Lumley Bayshore Community Centre	Sunday, Oct. 21, 2018	10:00 am – 6:00 pm
	Monday, Oct. 22, 2018	10:00 am – 8:00 pm

Staff will also be attending all institutions and retirement homes throughout the voting period as required by the *Municipal Elections Act, 1996* (the “MEA”) and plan to provide a Help Centre for Georgian College students on one day during the voting period.

Candidate and Third Party Advertiser Information Sessions

Two candidate and third party advertiser information sessions are being held in Grey County. One will be held on Tuesday, April 17, 2018 from 6:00 p.m. to 8:00 p.m. at the Harry Lumley Bayshore Community Centre and the other will be held on June 21, 2018 from 6:00 p.m. to 8:00 p.m. at the Flesherton Kinplex.

The information sessions are free and open to anyone considering running in the 2018 municipal or school board election or registering as a third party

advertiser. Individuals interested in attending need to register online at www.eventbrite.com. The link is also available on the City's website. The sessions will include information from the Ministry of Municipal Affairs, Municipal Property Assessment Corporation and staff of Grey County. Staff from each member municipality will be available to answer questions and provide additional information.

Dominion Voting

Dominion Voting ("Dominion") is the election service provider contracted for the upcoming election. The City has a link to Dominion's voter education video from 2014 on our website and staff will update the link when the 2018 video becomes available.

At a previous Council meeting Council inquired about the length of inactivity required before the internet voting portal times out. Dominion has advised that if there is no mouse movement for ten minutes the system will time-out. As long as there is movement the system will not time-out. On average it takes approximately 2.5 minutes – 5 minutes for an individual to vote on the internet.

Electronic Filing

Candidates and third party advertisers are required to submit a financial statement and auditor's report reflecting election campaign finances. If the money spent is equal to or less than \$10,000 than an auditor's report is not required.

The MEA now provides the clerk with the authority to permit electronic filing ("E-filing") of financial statements as well as establish the conditions and limits with respect to E-filing.

E-filing is not required and very few municipal clerks are instituting this option. For the 2018 Owen Sound municipal election E-filing will not be used. Candidates and Third Party Advertisers will submit financial statements in hard copy, which will be reviewed by the Clerk or designate.

Sign By-law

Changes to the MEA with respect to advertising allow candidates to advertise with the purpose of promoting or supporting their candidacy and allow third party advertisers to advertise with the purpose of promoting, supporting or opposing a candidate or a 'yes' or 'no' answer to a by-law or question on the ballot.

To ensure that these changes are clear, staff recommend updating the definition of Political Poster in the Sign By-law to read:

“Political Poster” means a single or double faced Sign promoting, opposing or taking a position with respect to:

- a. any candidate or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*;
- b. an issue associated with a person or political party in an election under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*; or
- c. a question, law or by-law submitted to the electors under the *Canada Elections Act*, the *Election Act (Ontario)* or the *Municipal Elections Act, 1996*;

The amendment requires Council approval by by-law.

Use of City Resources during Elections Policy Number CrS-C39

Staff have reviewed the City’s policy respecting use of City resources during elections. Due to changes to the MEA, third party advertisers need to be added to the policy. The revised policy is attached and requires Council approval by by-law.

MPAC Enumeration

The MPAC enumeration process for the 2018 municipal election is set to begin mid-March. Eligible electors will be able to visit www.voterlookup.ca to confirm or update their electoral information; add an elector name to an address; and change school support. Upon approval by MPAC, the link to www.voterlookup.ca will be added to the City’s website.

Delegate Authority Respecting Election Advertising

Section 88.7 of the MEA provides authority to the municipality (Council) to require the removal or discontinuance of advertising that is in contravention of section 88.3, 88.4 or 88.5 of the MEA. Being as Council members may be candidates in the municipal election it is not advisable for Council to be making decisions on the enforcement of election advertising. It is staff’s recommendation that Council delegate this authority to By-law Enforcement who will manage contraventions in accordance with the City’s By-law Enforcement Policy CrS-BL6 (complaint based). The delegation requires Council approval by by-law.

The City Clerk is not empowered to investigate and enforce election related complaints against registered third parties because it would be a conflict of interest for the City Clerk to administer the election in a fair and impartial manner while simultaneously investigating and enforcing non-compliance activities of registered third parties.

For Owen Sound, By-law Enforcement is managed by the City Clerk, so to ensure impartiality as noted above, the City Manager will oversee By-law Enforcement for the purposes of enforcement of section 88.7 of the MEA respecting election advertising.

Financial/Budget Implications:

Election staff will be hired to work at the help centre locations. Advertisements will be distributed as determined by the Clerk. Election costs are included in the election budget.

Communication Strategy:

All election related material is available on the City's website. The help centre locations, dates and times will be advertised through the City's website, insert in the tax bill and posters at the facilities. The candidate and third party advertiser information sessions will be advertised through an ad in the Sun Times, a media release and social media. The Use of City Resources during Elections policy will be on the website and provided to all candidates and registered third party advertisers.

Consultation:

Deputy Clerk – Legislative

Manager of I.T.

Attachments:

1. Revised Policy Number CrS-C39 - Use of City Resources during Elections

Prepared By: Briana Bloomfield _____ signature on file

Reviewed By: Kate Allan _____ signature on file

Submitted By: Wayne Ritchie _____ signature on file

Title: Use of City Resources during Elections

Department/Division: Corporate Services/Clerk's

Purpose:

1. This policy has been enacted to:
 - a. protect the interests of Candidates, Third Party Advertisers, the City, and Staff;
 - b. ensure a consistent approach and direction to City employees on how City resources can and cannot be used during municipal, school board, provincial and federal election campaigns or campaigns respecting a question on a ballot; and
 - c. clarify that a municipality is prohibited from making a contribution to a municipal election candidate and that all municipal election candidates are required to follow the provisions of the *Municipal Elections Act, 1996* respecting contributions during municipal election campaigns.

Scope:

2. This policy applies to Candidates, Third Party Advertisers, members of City Council, Staff and any other person with access to City Resources during the period of time in which an individual can be nominated for Election and voting day for that Election or during the period of time that a by-law is passed respecting a question on a ballot and voting day for that question, as appropriate.

Definitions:

3. For the purposes of this policy,

"Candidate" means an individual nominated for any provincial or federal election or by-election, or any municipal election or by-election held under the *Municipal Elections Act, 1996*, including individuals that are acclaimed.

"City" means the Corporation of the City of Owen Sound;

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“City Council” means the Mayor and members of Council for the City regardless of whether they are seeking re-election or not;

“City Resource” means any money, goods, services or property owned or provided by the City and includes, but is not limited to:

- a. telephones, cell phones, personal digital assistants, computers, tablets or other electronic devices;
- b. printers, scanners, fax machines, copiers or any paper, toner, ink or other related consumables;
- c. email or voicemail;
- d. Mayor, Council and Committee budget or expense accounts including but not limited to internet, car, travel, meeting, mail, postage, photocopying, office supplies, advertising and promotional expenses;
- e. any website, social media account or domain name owned, maintained or registered by or on behalf of the City;
- f. the City logo or any photograph, graphic, slogan, crest, coat of arms, flag, chain of office, uniform, business cards, letterhead or any other information or intellectual property;
- g. any City office, facility, vehicle or equipment.

“Election” means any provincial or federal election or by-election; any municipal election or by-election held under the *Municipal Elections Act, 1996*; and any by-law or question submitted to the electors by the City;

“*Municipal Elections Act, 1996*” means the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sch;

“Person” includes an individual, corporation or trade union;

“Staff” means employees of the City and includes contract employees.

“Third Party Advertiser” means an individual, corporation or trade union registered under section 88.6 of the *Municipal Elections Act, 1996*.

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Policy:

4. The City shall not contribute City Resources to Candidates or Third Party Advertisers.
5. No Person with access to or control of City Resources shall use City Resources for the purposes of an election, or contribute or allow the contribution of City Resources for campaign-related purposes. For greater clarity the following applies:
 - a. All Candidates and Third Party Advertisers are prohibited from using the City's crest, logo, brand, coat of arms and slogan in campaign-related material either in print or digital format.
 - b. Websites or domain names that are funded by the City shall not include any campaign-related material.
 - c. Campaign-related messages shall not be recorded using the City's voicemail or email system.
 - d. The use of corporate information technology (IT) assets, infrastructure or data (i.e. computers, corporate email, web pages, social media links, portals, photocopiers, scanners, fax machines or telephones) to respond to or communicate campaign-related messages is prohibited, subject to the provisions of section 5.e.
 - e. Members of City Council who register as Candidates may use City wireless routers already installed in their homes for campaign-related activities provided that they pay to the City a fee, proportionate with the pro-rated use of the wireless router device, and declare the expense on their Election financial statement.
 - f. City staff may not assist, in a staff capacity, with any communications activity related to the preparation or distribution of campaign-related materials or events.
 - g. No photographic or video material created by the City may be used in any campaign-related materials.

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- h. City offices, City facilities and City property, save and except private residences located on City property, may not be used to display campaign-related signs in windows or on the premises or display campaign-related print material.
- i. Use of City facilities for campaign-related events and use of commercial advertising space located in City facilities or on City property may occur for campaign-related activities provided that the Candidate or Third Party Advertiser undertakes the use in accordance with:
 - i. any usual licence, invoice, rental agreement or facility use agreement;
 - ii. any standard associated fees set out by third parties or the City;
 - iii. requirements to account for the expenses on Election financial statements.
- j. Materials paid by municipal funds that reference that a Candidate or Third Party Advertiser is registered in any election or indicate that a Candidate will be running for office is prohibited from being printed or distributed.
- k. The budgets for City Council, for the period of January 1 to November 30 in a municipal election year, shall be restricted to 11/12ths of the approved annual budget amount with the provision that subsequent to December 1:
 - i. New members of City Council be allocated a budget equal to 1/12th of the approved budget amount for the month of December; and
 - ii. Re-elected members of City Council have available to them the balance of funds remaining as of November 30th.
- 6. Section 5 of this policy shall not apply to:
 - a. City Resources that are used by the City Clerk or their designate for the purpose of conducting a municipal Election; and
 - b. Minutes of Council or City Committee meetings.

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7. City Staff shall:
 - a. provide all City services in a fair and impartial manner;
 - b. refrain from canvassing or actively working in support of a Candidate or party or Third Party Advertiser during normal working hours.
8. In accordance with Policy CMA-15 – Code of Ethics for Municipal Employees, City Staff are discouraged from direct involvement in City municipal campaigns. An employee may involve himself/herself in a non-municipal election campaign unless it would affect their judgment in the performance of their job duties. Employees may exercise their civic right to run for public office as long as they can make appropriate arrangements to effectively discharge their duties during the course of their political involvement.
9. During an election under the *Municipal Elections Act, 1996*, responses to information requests from a Candidate will be provided to City Council and all Candidates in a manner deemed appropriate by the Clerk. Staff will need to determine if a request from members of City Council, who are also Candidates, are made in their capacity as a member of City Council or as a Candidate, bearing in mind the requirement for fair and transparent treatment of all Candidates. In the event of uncertainty as to the nature of a request, staff shall refer to the City Clerk who will determine the nature of the request.
10. Violations of this policy will be addressed, where appropriate, pursuant to the provisions of the *Municipal Elections Act, 1996*.

Appendices:

11. None

Revision History:

By-law No. 2014-033	March 17, 2014