



*The Corporation of the Municipality of Wawa
Staff Report*

Clerk

Prepared For: Council	Report No.: CC-2022-04
Agenda Date: August 16, 2022	File No.: C11

Subject

The *Municipal Elections Act, 1996* (“MEA”) requires that all municipalities appoint a Compliance Audit Committee. A qualified elector who believes on reasonable grounds that a candidate has contravened a provision of the *MEA* relating to election campaign finances, may apply to the Compliance Audit Committee for a compliance audit of the candidate’s finances.

The Terms of Reference establishes a Joint Compliance Audit Committee with the communities of Dubreuilville, Chapleau, Hornepayne, White River and Wawa. During past Elections, the municipality encountered difficulty in attracting applicants to the committee, and in 2018 and again in 2022, through discussions with the Clerks of the Townships of Dubreuilville, Chapleau, Hornepayne, Wawa and White River, it was agreed a Joint Compliance Audit Committee consisting of three (3) members and one (1) alternate would be established with the surrounding community for the 2022 Election. Any costs associated with the Joint Compliance Audit Committee or an auditor shall be the responsibility of the municipality requiring the services of the Committee or auditor.

List of Stakeholders

The major stakeholders in this issue include:

- Municipality of Wawa and Eligible Electors
- Eligible School Board Electors
- Candidates for School Board and Municipal Council Elections
- Townships of Chapleau, Dubreuilville, Hornepayne and White River, and its Eligible Electors

Respectfully Submitted By: Cathy Cyr, Clerk	Reviewed By: Maury O’Neill, CAO
Name/Signature/Title 	Supervisor’s Name/Signature/Title 

Analysis

Background

Section 88.37(1) of the *MEA* makes the establishment of compliance audit committees mandatory for municipalities and local boards. The *MEA* states that a qualified elector who believes on reasonable grounds that a candidate has contravened a provision of the *MEA* related to election campaign finances may apply for a compliance audit of the candidate's or the Third Party election campaign finances.

The *MEA* requires all candidates and registered third parties to file financially prescribed financial statements with the Clerk, detailing their campaign financing activities.

Applications for a compliance audit are submitted to the Municipal Clerk, who in turn would submit the application to the Compliance Audit Committee. The Committee reviews each application to determine whether or not there are reasonable grounds to request an audit. If the request is granted, the Committee would appoint an auditor to audit the candidate's finances. Upon completion of the audit, the Committee would review the auditor's report and determine whether or not the candidate contravened the *MEA*, and then decide if legal proceedings against the candidate should proceed. Further, if the report concludes that a candidate or registered third party does not appear to have contravened a provision of the *MEA* related to election campaign finances, the Committee may make a finding as to whether there were reasonable grounds for the application for a compliance audit.

If the auditor's report indicates that there was no appear contravention of the *MEA* and the Committee finds that there were no reasonable grounds for the application, Council is entitled to recover the auditor's costs from the applicant.

The current Compliance Audit Committee was appointed for the term December 1, 2018 and will remain in existence until November 14, 2022. The new Compliance Audit Committee must be established by October 1, 2022; therefore, a by-law to establish the committee would be required to be complete by Friday, September 29, 2022.

The *MEA* states that Compliance Audit Committee be composed of between 3 and 7 members; ideally to include auditors, accountants, lawyers, academics and other individuals with knowledge of the *MEA*'s campaign financing rules. Prior experience on a committee would be an asset.

In 2018, Council approved the Terms of Reference for a Joint Compliance Audit Committee with the Townships of Chapleau, Dubreuilville, Hornepayne, Wawa and White River. Again this year, Wawa approached the Clerks of the communities of the Regional Mayors Group to create a Joint Compliance Audit Committee. The Committee would consist of three members and one alternate, if needed, with the committee composition made up of the Clerks or designates from the surrounding communities. No Clerk or employee may be a member for its municipality's committee. Below is the recommended Committee composition:

Community	First Committee member	Second Committee member	Third Committee member	Alternate Committee member
Chapleau	Dubreuilville	Wawa	White River	Hornepayne
Dubreuilville	Chapleau	Hornepayne	Wawa	White River
Hornepayne	Dubreuilville	Wawa	White River	Chapleau
Wawa	Chapleau	Dubreuilville	White River	Hornepayne
White River	Chapleau	Dubreuilville	Hornepayne	Wawa

A Joint Compliance Audit Committee offers the greatest potential to attract members to the Committee, in a cost effect manner. Because requests for compliance audits are rare, a Joint Committee would be able to handle the potential workload.

To avoid possible conflicts of interest, care must be taken that any auditors or accountants appointed to the Compliance Audit Committee do not audit or prepare financial statements of any candidate running for a Municipal Office or registered third parties in the participating municipalities during the term of the committee. Accordingly, any auditor or accountant appointed to the Committee will have to agree, in writing, to not undertake audits or preparation of financial

statements of any candidate seeking a Municipal Office. Failure to adhere to this requirement would result in the individual being removed from the Committee.

When one of the participating communities receives an application for a compliance audit, the Clerk of the municipality would call a meeting of the Joint Compliance Audit Committee; prepare the necessary notices, agenda, minutes, etcetera. Any costs associated with the holding of meetings, or decisions of the Committee, will be the responsibility of the municipality requesting the services of the Joint Compliance Audit Committee. The Committee members would receive a stipend (yet to be determined) for attendance at each meeting, plus mileage at the current rate of the municipality requesting the services of the Committee. If required, Committee members may participate in the meetings via webinar or teleconference.

The Joint Compliance Audit Committee members would be covered by the municipality's errors and omissions, and general liability policies to protect and defend against claims from third parties while performing duties as a Committee member.

The establishment of the committee aids in fulfilling the goal of an accountable local government by making candidates and Council Members more accountable to the electorate and their actions are more transparent.

Financial/Staffing Implications

Administration costs for such items as printing, mail and mileage would be funded from the Administration/Finance Operating Budget. The participating communities are required to pay any applicable costs in relation to the Committee's operation, activities and any auditor costs, should an audit be required.

Council is entitled to recover the auditor's costs from the applicant if an auditor's report indicates that there was no apparent contravention of the *MEA*, and the Committee finds that there are no reasonable grounds for the application. Recover of costs will be considered on a case-by-case basis.

Policies Affecting Proposal

Code of Conduct for Council Members

Alternatives

The appointment of the Compliance Audit Committee is a mandatory requirement. Whether this Committee is a joint Committee or a Committee which is solely appointed to deal with issues in Wawa remains the choice. Therefore, the alternatives are:

1. Appoint a joint Compliance Audit Committee
2. Appoint a "stand alone" Compliance Audit Committee

Recommendation

The appointment of a Joint Compliance Audit Committee is the preferred option with a preferred manageable size of three (3) members with one alternate, with the composition made up of the Clerks or designates from the surrounding communities. No Clerk or employee would be a member for its municipality's committee. This will provide a well-balanced approach to the operation of the Committee.

The appointment of 3 members of the Committee from outside each municipality will also assist in removing any perception of biasness on the part of the majority of the members.

To that end, and provided that the Municipality of Wawa receives positive notification from the other partners, this report recommends the appointment of a three (3) member joint Compliance Audit Committee and further that the attached By-Law and Terms of Reference be adopted by Council.

Attachments

1. Joint Compliance Audit Committee - Terms of Reference By-law
2. Section 88.37, the Municipal Elections Act, 1996

**THE CORPORATION OF THE
MUNICIPALITY OF WAWA**

BY-LAW NO. 3528-22

BEING A BY-LAW to appoint a Joint Compliance Audit Committee.

WHEREAS pursuant to the Section 88.37 of the Municipal Elections Act, 1996 a council or local board shall, before October 1st, 2022 establish a committee for the purpose of Section 88.33;

AND WHEREAS Council of The Corporation of the Municipality of Wawa deems it expedient to pass a by-law to adopt the terms of reference for a joint audit compliance committee;

NOW THEREFORE the Council of The Corporation of the Municipality of Wawa enacts as follows:

1. **THAT** a Committee, to be known as the Joint Compliance Audit Committee, is hereby established to deal with the matters provided for in Section 88.33 - 88.37 of the Municipal Elections Act, 1996.
2. **THAT** the Joint Compliance Audit Committee shall consist in accordance with the Terms of Reference attached hereto as Schedule "A-1".
3. **THAT** should any of the members of the Joint Compliance Audit Committee resign or otherwise be unable to perform their duties, the alternate will be called upon, without the necessity of taking any further steps to constitute them as members of the Joint Compliance Audit Committee.
4. **THAT** the business of the Joint Compliance Audit Committee be conducted in accordance with the Terms of Reference set out in Schedule "A" attached hereto, which shall form part of this By-Law.
5. **THAT** this may be referred to as the "Joint Compliance Audit Committee By-Law".
6. **THAT** this By-Law shall come into full force and effect on the date of passage.

READ a first, second and third time and be finally passed this 16th day of August, 2022.

PAT TAIT, MAYOR

CATHY CYR, CLERK

TERMS OF REFERENCE

FOR JOINT COMPLIANCE AUDIT COMMITTEE MANDATE

1. Authority:

The powers and functions of the Compliance Audit Committee (hereinafter referred to as the "Committee") are set out in Section 88.33 - 88.37 of the *Municipal Elections Act, 1996*.

2. Purpose of Committee:

- (a) Within 30 days of receipt of an application requesting a compliance audit, the Committee shall consider the compliance audit application and decide whether it should be granted or rejected;
- (b) If the application is granted, the Committee shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances;
- (c) The Committee will review the auditor's report within 30 days of receipt and decide whether legal proceedings should be commenced; and
- (d) If the auditor's report indicates that there were no apparent contraventions and if there appears there were no reasonable grounds for the application, the Committee shall advise Council accordingly.

3. Eligibility to Serve on Committee:

- (a) The Clerk or designate of each participating municipality shall be appointed as a Committee member for those participating municipalities as set out on Schedule "A-1" attached hereto.
- (b) If a designate is appointed in place of the Clerk, the designate must have the necessary qualifications and experience in municipal elections and accounting to perform the duties as a Committee member.
- (c) Any person who has:
 - (i) participated as a candidate in the elections of the participating municipalities on whose Committee he or she is appointed as a member; or
 - (ii) conducted audits or provided financial advice in respect of such campaigns,
- (d) Members of Council and candidates who are running for office in the 2022 municipal election are not eligible to be appointed to the Committee.
- (e) Municipal Staff can be appointed to the Committee but are not eligible to participate in audits occurring in their own municipality.

4. Rules Governing Committee Members:

- (a) In the event that a Committee member at any time during the term of his or her appointment, either accepts employment with or registers as a candidate for any of the participating municipalities on whose Committee he or she serves as a Member, his or her appointment to the Committee shall be terminated effective upon commencement of such employment or registration of candidacy.
- (b) Each Committee Member shall agree in writing that he or she will not at any time during the term of his or her appointment work for, or provide advice to, any candidate running for municipal office within the participating municipalities on whose Committee he or she serves as a Member.
- (c) To avoid any potential conflict of interest, any Committee member who has an accounting or auditing background shall agree in writing that he or she will not offer his or her services to any municipal election candidate.

5. Committee Composition:

The Committee of each participating municipality shall be comprised of three members. When a municipality is in receipt of a compliance audit application, the Clerk of the municipality receiving the application shall contact that municipality's Committee members, as shown on Schedule "A-1" hereto, and shall arrange for the three Members to hear the audit request. In the event that one of the three appointed Committee members is unable to participate when the Committee is required to process a compliance audit application, the alternate cited in Schedule "A-1" shall be deemed to be appointed to the Committee in place of the member who is unable to participate.

6. Term of Appointment:

The term of appointment to the Committee shall be equivalent for the term of Council being November 15, 2022 to November 14, 2026.

7. Committee Chair:

The three member Committee called to hear a request for a compliance audit shall, at its first meeting, select one of its Members to act as a Chair for the balance of its term of appointment.

8. Proposed Meeting Schedule:

The Committee shall meet as required when a compliance audit application is received. Committee meetings shall be scheduled by the Clerk of the municipality in which an application is received, in consultation with the Committee Chair, if one has been appointed.

9. Staffing and Funding:

Staff from the municipality requiring the services of the Committee shall provide administrative support to the Committee.

A municipality requiring the services of the Committee shall be responsible for all expenses associated with the Committee's processing of an application for a compliance audit on its behalf. The municipality requiring the compliance audit shall reimburse Committee members for mileage at the rate established by his or her municipality and for expenses incurred for which supporting documentation is provided.

10. Meetings:

Meetings of the Committee shall be conducted in accordance with the open meeting requirements of the provisions in the *Municipal Act, 2001*. Fax or email will be utilized to communicate the meeting notices and agendas.

Meetings may be held by teleconference or videoconference, if this will not negatively affect the process.

11. Remuneration

Municipalities shall pay no retainer fee for participating in this agreement.

SCHEDULE “A-1”

to

Terms of Reference for Joint Compliance Audit Committee Mandate

Joint Compliance Audit Committee membership for each Participating Municipality

NAME OF MUNICIPALITY	FIRST COMMITTEE MEMBER	SECOND COMMITTEE MEMBER	THIRD COMMITTEE MEMBER	ALTERNATE COMMITTEE MEMBER
Chapleau	Dubreuilville	Wawa	White River	Hornepayne
Dubreuilville	Chapleau	Hornepayne	Wawa	White River
Hornepayne	Dubreuilville	Wawa	White River	Chapleau
Wawa	Chapleau	Dubreuilville	White River	Hornepayne
White River	Chapleau	Dubreuilville	Hornepayne	Wawa

Compliance audit committee

88.37 (1) A council or local board shall establish a compliance audit committee before October 1 of an election year for the purposes of this Act. 2016, c. 15, s. 66.

Composition

(2) The committee shall be composed of not fewer than three and not more than seven members and shall not include,

- (a) employees or officers of the municipality or local board;
- (b) members of the council or local board;
- (c) any persons who are candidates in the election for which the committee is established; or
- (d) any persons who are registered third parties in the municipality in the election for which the committee is established. 2016, c. 15, s. 66.

Eligibility for appointment

(3) A person who has such qualifications and satisfies such eligibility requirements as may be prescribed is eligible for appointment to the committee. 2016, c. 15, s. 66.

Same

(4) In appointing persons to the committee, the council or local board shall have regard to the prescribed eligibility criteria. 2016, c. 15, s. 66.

Term of office

(5) The term of office of the committee is the same as the term of office of the council or local board that takes office following the next regular election, and the term of office of the members of the committee is the same as the term of the committee to which they have been appointed. 2016, c. 15, s. 66.

Role of clerk or secretary

(6) The clerk of the municipality or the secretary of the local board, as the case may be, shall establish administrative practices and procedures for the committee and shall carry out any other duties required under this Act to implement the committee's decisions. 2016, c. 15, s. 66.

Costs

(7) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2016, c. 15, s. 66.

Section Amendments with date in force (d/m/y)