Agenda – Council – July 26, 2006

Report – Executive Policy Committee – July 12, 2006

Item No. 2 Ad Hoc Committee on Election Review – Request for Amendments to The City of Winnipeg Charter
File CR-5

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 12, 2006, the Executive Policy Committee concurred in the administrative recommendation and submits the following to Council:

1. That the Province of Manitoba be requested to:

   A. Amend section 35(2) of The City of Winnipeg Charter, so as to set the last date for filing of audited statements by candidates in by-elections at 210 days after the date of the by-election.

   B. Amend section 44(3) of The City of Winnipeg Charter, so as to set the penalty for failure to file audited statements at 2 terms, rather than the current 1 term.

   C. Further amend section 44(3) of The City of Winnipeg Charter, so as to disqualify a candidate from being nominated or elected as a member of council until after audited statements for all previous elections in which the candidate has been nominated have been filed to the satisfaction of the Campaign Expenses and Contributions Officer.

   and that all amendments take effect after the upcoming General Municipal Election on October 25, 2006.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – July 12, 2006

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 12, 2006, the Executive Policy Committee concurred in the administrative recommendation and submitted the matter to Council.

RE: Ad-hoc Committee on Election Review

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: City Clerk

REPORT DATE: July 5, 2006

RECOMMENDATION(S):

1) That the Province of Manitoba be requested to:

   (a) Amend section 35(2) of *The City of Winnipeg Charter*, so as to set the last date for filing of audited statements by candidates in by-elections at 210 days after the date of the by-election.

   (b) Amend section 44(3) of *The City of Winnipeg Charter*, so as to set the penalty for failure to file audited statements at 2 terms, rather than the current 1 term.

   (c) Further amend section 44(3) of *The City of Winnipeg Charter*, so as to disqualify a candidate from being nominated or elected as a member of council until after audited statements for all previous elections in which the candidate has been nominated have been filed to the satisfaction of the Campaign Expenses and Contributions Officer.

   and that all amendments take effect after the upcoming General Municipal Election on October 25, 2006.

2) That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report Summary

- Legislation regarding the filing dates of audited statements for by-elections needs to be updated to match regular general municipal election provisions.

- The 2004 Civic By-election continues to bear out the fact that the current penalties for not submitting audited statements are not severe enough, with over 25% of the candidates not having submitted audited statement by the required deadline.

Key Issues:

- The next general municipal election is October 25, 2006.
- The Province of Manitoba must enact changes to *The City of Winnipeg Charter* in order for these changes to take effect.

Implications of the Recommendation(s):

General Implications

X None

☐ For the organization overall and/or for other departments

☐ For the community and/or organizations external to the City

☐ Involves a multi-year contract

Comment(s):

Policy implications

☐ No

X Yes

Comment(s):

Environmental implications

X No

☐ Yes

Comment(s):

Human Resources implications

X No

☐ Yes

Comment(s):

Financial Implications

X Within approved current and/or capital budget

☐ Current and/or capital budget adjustment required

Comment:

Report

REASON FOR THE REPORT:

- On July 20, 2005, the Executive Policy Committee reconstituted the Ad Hoc Committee on Election Review and appointed Councillors De Smedt and Eadie to the Committee and requested the Ad Hoc Committee to review the recommendations included in the Campaign Expenses and Contributions Officer's report on the 2004 Civic By-Election, and report back with recommendations.

HISTORY & DISCUSSION:

On June 16, 2005, the Province enacted *The Municipal Councils and School Boards Elections Act* to replace *The Local Authorities Elections Act* as the governing legislation for elections for municipalities in Manitoba.

As a result of this enactment, various City By-laws needed to be updated to ensure they were in keeping with the new terminology and methodologies as specified in the new Act.

On January 25, 2006, Council adopted the report of the Executive Policy Committee dated January 18, 2006, adopting the recommendations of the Ad-hoc Committee on Election Review and amending the Vote Counting Machine By-law, the Campaign Expenses and Contributions By-law, and the Appointment of Election Officers By-laws.

The Adhoc Committee on Election Review has also recommended further changes which require the Province to amend *The City of Winnipeg Charter.*

The first change, Recommendation 1(a), is to amend the date for filing audited statements for by-elections. The current legislation requires the filing of audited statements by May 31 of the year following the election for both regular elections and by-elections. For the 2005 St. Norbert Councillor By-election, which took place in April of 2005, this resulted in candidates not having to file audited statements for 13 months. This extended time period increases the overall risk of candidates not filing audited

statements and as well increases the waiting time for persons looking to apply for refunds on campaign contributions. The recommended change is to set the last date for filing of audited statements for by-elections at 210 days after the date of the by-election, which will bring it in line with the time frame for regular elections. Section 35(2) of *The City of Winnipeg Charter* is listed for reference in Appendix A.

The next two changes to the Charter Act being asked for of the Province, Recommendations 1(b) and 1(c), deal with attempting to ensure greater compliance by candidates with the legislative requirement of filing of audited statements. In the 2004 Civic By-election for Mayor and two Council Wards, over 25% of the 26 nominated candidates failed to comply with the requirement to file an audited statement.

In terms of Recommendation 1(b), the current legislation prevents candidates who fail to file an audited statement from becoming nominated again until after the next general election, effectively 4 years. The change being recommended is to extend this period to prevent candidates who fail to file from being nominated for two election cycles rather than one, or effectively 8 years. This change is similar to penalties imposed currently by the City of Vancouver. Section 44(3) of *The City of Winnipeg Charter* is listed for reference in Appendix A.

Recommendation 1(c) further asks for Section 44(3) to be amended by adding that should a candidate fail to file an audited statement according to the legislative requirements, that said candidate not be allowed to be nominated for any future elections until they file all outstanding audited statements to the satisfaction of the Campaign Expenses and Contributions Officer. This recommendation would be imposed even after the candidate has sat out a minimum of two general elections as specified above. The rationale is that audited statements are required so as to ensure openness and accountability from all candidates in regards to how they collected and expended monies for their campaigns. Submissions of these audited statements, even after the legislated filing dates, will provide the citizens of Winnipeg with some accountability in regards to the candidate and should be a pre-requisite before candidates are allowed to pursue civic office a subsequent time.

Appendix A

The City of Winnipeg Charter extracts

Time for filing statement

35(2) An audited statement required under subsection (1) to be filed by a registered candidate in an election must be filed,

(a) if the candidate is nominated in the election and does not withdraw, not later than May 31 of the year following the election; and

(b) if the candidate is not nominated in the election or is nominated and withdraws, not later than the day that is 60 days after the election.

Failure of other registered candidates to file

44(3) Where an individual who is registered as a candidate in an election and who fails to be nominated, withdraws, or is not elected in the election, fails to file an audited statement in compliance with section 35, the individual is disqualified from being nominated for or elected as a member of council until after the next general election.

Financial Impact Statement

Date:

Project Name:

First Year of Program

	0	1	2	3	4
Capital					
Capital Expenditures Required		$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery		-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

"Original signed by"
Marc Lemoine
Deputy City Clerk

IN PREPARING THIS REPORT THERE WAS CONSULTATION WITH, AND CONCURRENCE BY:

Ad-hoc Committee on Election Review
City Clerk's Department
Legal Services

THIS REPORT SUBMITTED BY:

City Clerk's

Prepared by: Richard Kachur (2428)
File No.

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