To: Chair and Members
   Corporate Administration Committee

From: Kevin C. Christenson
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      Corporate Services

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Re: Code of Conduct and Election Campaigns CL06003 (City Wide)


Information: Nomination papers for the 2006 Election may be filed from January 3, 2006 until 5:00 p.m. on September 29, 2006. The campaign period has commenced and we have received a number of nominations. The intent of this report is to review and clarify the code of conduct provision in the City’s Procedural By-Law, as it applies to the use of city property, with particular emphasis on the 2006 election campaign.

Appendix H of the City’s Procedural By-law Number 03-301, outlines the code of conduct for members of council and provides generally that city property, equipment, services and supplies cannot be used for purposes other than the discharge of city duties. This includes a further statement which dictates that no member shall use city facilities, services or property for his/her re-election campaign and that city employees cannot work on re-election campaigns during any hours they are in the paid employment of the city.

In addition to city’s code of conduct, Section 70(4) of the Municipal Elections Act specifically prohibits municipalities from contributing to election campaigns. Based upon Section 70 of the Act, any use of city facilities, services, property, etc. for election purposes could be interpreted as a contribution from the municipality and therefore a violation of the Act which carries penalties. The inappropriate use of city resources in this way would also require that restitution be made to the municipality.

Generally speaking, restrictions on use of city resources for election purposes can extend to anything funded by the city. This can also include:

- any printed and/or distributed material paid by city funds which illustrate that a member of council or any other individual is a registered candidate
- any profile (name or photograph) or any reference to any registered candidate in any material paid for by city funds
- any material using city funds that makes reference to or contains the names or photographs or identifies registered candidates
- any use of the City of Hamilton logo

Given the above interpretations, council members seeking re-election must be careful to ensure that the content of any communications material funded by the city is not election related. This includes printed information and electronic images or transmissions on the city web site which can be seen as a form of contribution. By way of example, direct links to candidate web sites from the city web site are not allowed because this can be seen as a form of sponsorship on the city’s part and therefore a contribution.

Beyond the restriction on use of city resources for election related purposes, it has been our practice to restrict the use of city resources in general for all purposes by councillor’s seeking re-election from August 31st until after election day. In this regard only communications of an urgent nature, directly related to the councillor’s duties would be appropriate to go out and should be reviewed for content by the City Clerk and Communications prior to their distribution.

It is not the intent of this report to inhibit councillors from representing the interests of the constituents who elected them but only to set out guidelines as to the requirements of council’s own code of conduct, past practice and the contribution restrictions that exist in the Municipal Elections Act. Questions on this issue should be directed to the City Clerk, Deputy City Clerk/Manager, Elections or the Co-ordinator, Elections / Freedom of Information.

Kevin C. Christenson
City Clerk
Corporate Services