On August 11, 2009, Committee of the Whole approved the following motion:

12.  Municipal Democratic Renewal (Added Motion)

   […]

   (c)  That this report be referred to the Audit and Administration Committee to investigate the various options, criteria and formula for a Municipal Election Contribution Rebate Program and report back to Committee of the Whole by October 2009 on proposed parameters and cost estimates of a Rebate Program for individual contributions from Hamilton residents, similar to tax incentives provided to federal or provincial parties and candidates.

A copy of Report CL09004(a) respecting Trade Union Contributions to Municipal Election Campaigns, which was received for information at the August 11, 2009 Committee of the Whole meeting, has been attached for information purposes.
To: Mayor and Members
   Committee of the Whole

   Outstanding Business Item: Referred from Council on June 10, 2009
   Audit and Administration Committee Outstanding
   Business Item P

From: Kevin C. Christenson
      City Clerk
      Corporate Services

   Telephone: 905 546-2728
   Facsimile: 905 546-2095
   E-mail: kevin.christenson@hamilton.ca

Date: July 28, 2009

Re: Trade Union Contributions to Municipal Election Campaigns (CL09004(a))
   (City Wide)

Council Direction:
At its meeting of June 10, 2009, Council directed staff to prepare a broader report
detailing options for election campaign reform; including experiences of comparable
municipalities, and report back to the next Audit & Administration Committee meeting.

Information:

Contributions by Corporations and/or Trade Unions
Currently the Municipal Elections Act, 1996 (MEA) only allows the City of Toronto to
pass a by-law prohibiting donations from a corporation that carries on business in
Ontario, or a trade union that holds bargaining rights for employees in Ontario.

For the City of Hamilton to have the same legislative authority, with regard to corporate
and trade union donations, City Council would need to petition the Minister of Municipal
Affairs and Housing to amend the MEA.

The issue of corporations and trade unions donating to municipal campaigns has been
a contentious and debated subject for many years. At this time Manitoba and Quebec
are the only two provinces to ban corporate and trade union donations.

Historically corporations and trade unions have donated significantly more to incumbent
candidates than other candidates.
In the 2006 City of Hamilton municipal election $766,923 were donated to candidates running for office on City Council. The following chart breaks down the donations by incumbents and other candidates, as well as those who donated:

<table>
<thead>
<tr>
<th></th>
<th>Corporation</th>
<th>Trade Unions</th>
<th>Individuals</th>
<th>Self Financed</th>
<th>$100.00 or less</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incumbents</td>
<td>$252,636</td>
<td>$24,275</td>
<td>$121,903</td>
<td>$17,231</td>
<td>$35,016</td>
</tr>
<tr>
<td>Other Candidates</td>
<td>$75,877</td>
<td>$14,637</td>
<td>$77,941</td>
<td>$98,996</td>
<td>$48,456</td>
</tr>
<tr>
<td>Totals</td>
<td>$328,513</td>
<td>$38,912</td>
<td>$199,844</td>
<td>$116,227</td>
<td>$83,472</td>
</tr>
</tbody>
</table>

This chart shows that 76.9% of all corporate donations and 62.4% of trade union donations went to incumbents. Additionally 85.1% of non incumbent candidates gave partial or full funding to their campaigns out of their personal resources.

Of the 33 non incumbent candidates that raised funds from the 2006 municipal election, 5 were elected to Council. These 5 ranked 1, 2, 3, 11 and 13 in funds raised. Although representing only 15% of the non incumbent candidates they accounted for 37.6% of the corporate donations and 52.5% of the trade union donations to these candidates.

Although not identical with other Ontario municipalities, the imbalance of donations from corporations and trade unions is similar.

Those arguing for the ban of corporate and trade union donations believe that:

1. It can create the perception that these donations influence the political process and bring into question the fairness and transparency of the process.

2. The name recognition of incumbent candidates, either through print media coverage, their ability to distribute municipally funded newsletters to their constituents, or televised council meetings provides them with a benefit not available to other candidates.

3. A corporation, trade union or individual may donate to as many candidates as they choose. Due to their resources a corporation or trade union would have a greater opportunity to contribute to numerous candidates.

4. Owners of corporations may also donate to campaigns, in addition to the donations of their companies. This creates an unlevel playing field as the average individual may only be able to contribute to one candidate, and in all probability not at the $750.00 level. This could be viewed as contravening the donation limit by allowing an owner to donate from his/her business and from his/her personal funds as well.
(5) It is difficult to determine the ownership of some companies, as they may be numbered, and their associated companies. This makes the ability to enforce campaign contribution limits difficult to ascertain.

Those in favour of maintaining the current process feel that:

(1) Corporations pay taxes on their businesses and they should have the opportunity to contribute to those candidates that believe in the same programs and principles as they do.

(2) Donations by individuals are no less influential than those of corporations and trade unions. If you want a park, speed bump or other neighbourhood program you are going to donate to the candidate most likely to bring that program or service to you.

(3) Compared to federal or provincial elections municipal elections currently receive limited exposure. The main reason is a lack of a political party machine driving the process. By restricting corporate and trade union donations it will make it more difficult to raise funds, thus reducing the opportunities for candidates to get their message across to the electorate.

(4) By eliminating corporate and trade union donations candidates will be required to provide more of their own funds for campaigns, which will give an unfair advantage to the wealthy.

City Council, candidates and the general public continue to debate this controversial issue. The Province of Ontario has solely granted the City of Toronto the authority to pass a by-law to implement a ban on these donations. There has been no direction that the Municipal Elections Act, 1996 will be amended to add other municipalities for the 2010 Municipal Election.

Ajax appears to be the only Ontario municipality that has requested the Minister to amend the MEA to ban donations by corporations or trade unions. Their request asked the Minister for all Ontario municipalities to have this authority.

The nomination period for the 2010 municipal election begins on January 4, 2010. A request to the Minister for consideration of this authority would need to be done as soon as possible.

**Campaign Contribution Rebates**

Section 82 of the Municipal Elections Act, 1996 allows a municipality, or a local board, to pass a by-law allowing for rebates to individuals, corporations or trade unions that make contributions to candidates for City Council. Funding for a rebate program would come from the city’s tax base.
In the by-law City Council would determine which of the groups would be eligible for rebates, as well as the payments they would be eligible for.

The by-law may also include a provision that any surplus held in trust under Section 79 of the MEA would be paid to the municipality. Currently any surplus of greater than $500 is held by the municipality until the candidate is nominated for the next municipal election.

It is important to note that should Council pass a by-law enacting a rebate program that participation in the program is not mandatory and would be at the discretion of each candidate.

Those in favour of a rebate program believe that:

1. if you disallowed donations from corporations and trade unions there would be an increase in the amount of donations from individuals, and

2. it levels the playing field for new candidates as it is perceived that fund raising would be easier, and

3. it may raise the interest in municipal elections.

Those opposed to the rebate program argue:

1. that the tax base for a municipality should not be used to fund election campaigns, and

2. that the program does not have a cap figure, the greater the number of candidates and contributors the larger the cost to the municipality.

Across Canada 34 municipalities were contacted and asked if they had rebate programs, and if they were considering them for future elections?

Of the 31 responses received 6 indicated that they did have a rebate program, Ajax, Markham, Oakville, Ottawa, Toronto and Winnipeg. Of the 25 not having a program, 23 are not considering a rebate program and 2, Brampton and London, have been asked for a report by their Councils.

British Columbia, Alberta, Saskatchewan, Quebec, Nova Scotia, New Brunswick, Newfoundland, Labrador and Prince Edward Island do not have rebate programs for municipal elections.

In Manitoba, Winnipeg is currently the only municipality with the authority to conduct a rebate program. The Manitoba provincial legislature has a bill before it extending the opportunity for all municipalities to offer rebate programs for municipal elections.
The chart, attached as Appendix “A”, outlines the formula used by each participating municipality for calculating rebates, the minimum donation required to receive a rebate, the maximum rebate available, and the total rebates issued from 2003 and 2006.

Based upon information extracted from candidate’s 2006 financial statements, estimates for a rebate program for the City of Hamilton were calculated. These figures do not include donations between $25 and $100, as they were not a requirement for the 2006 statements. They also do not include administrative costs such as rebate forms and receipts, advertising, cheques, postage, staff time and the possibility of compliance audits and fraud.

Using the Oakville formula rebates from 2006 would have cost the City of Hamilton an estimated $120,000. If the Ottawa formula was used the cost would have been an estimated $160,000.

When researching the rebate program issue the following concerns were consistently raised:

1. Foremost is what the actual costs will be for the city. Forecasting for the eventual payout figure is a guess at best. Additionally, administrative costs, which were previously detailed, would need to be included.

2. Who will be eligible for rebates? The MEA identifies corporations, trade unions, and individuals as being eligible. The chart, attached as Appendix “A”, shows that all the municipalities currently with rebate programs do not allow corporations or trade unions to receive rebates. When it comes to candidates, their spouses and children receiving rebates there is a split between the participating municipalities.

3. What will be the minimum donation to be eligible for a rebate?; and what will be the maximum rebate allowed? The municipalities currently with rebate programs have a minimum of either $25 or $50.

4. What will be the maximum rebate per candidate, or does the maximum rebate include your donation to all candidates? Those with a rebate program cap the maximum regardless of how many candidates you donate to.

5. What will you consider as a donation to a campaign, cash, goods, volunteer time, etc? The municipalities currently with a rebate program only allow cash donations.

6. Candidates participating in the program would now be required to report the contributor’s name and address for every donation that would be eligible for a rebate, dependent upon the minimum donation agreed upon. In the 2006 municipal election candidates reported names and addresses of those donating greater than $100.
(7) The MEA requires an audit of a candidates campaign only if the total contributions received and total expense incurred are greater than $10,000. With the exception of Ajax, the other municipalities participating in the rebate program require audits for all candidates participating in the program. This will assist in eliminating any fraudulent activities and ensuring transparency of the campaigns and rebates.

If enacting the legislation dealing with rebates, a by-law would need to be enacted by December 31, 2009 to comply with the November 8, 2010 municipal election.

Contributions by corporations and trades unions, and contribution rebate programs are the most talked about issues when looking at election reforms.

Following are a list of other topics dealing with election reform:

**Nomination Day**

There is discussion to have nomination day moved to June 1st. In an effort to level the playing field and eliminate the perception that incumbents have greater municipal resources available to them by having January 1st as nomination day.

**Campaign Finances**

Concerns regarding campaign finances require clarity and greater direction from the province when it comes to the financial forms, which need to be completed at the conclusion of each election. Many believe that a third party should be responsible for the reviewing of municipal financial forms, whether it be the province or an independently appointed body.

Others believe that the cost of holding fund raising functions should be part of the campaign spending limits as opposed to the limitless level they are now at.

The retention of a surplus from one municipal election to the next, if the candidate runs again, also is contentious. Donations to a campaign are expected by the donor to be used for that campaign. Electors may be supporting a candidate based upon a particular platform and want their donation to be used for the current campaign. It is also believed that this gives a candidate with a surplus an unfair advantage to begin the next campaign.

It has also been suggested that candidates should be required to file a preliminary list of campaign contributions. These would created greater transparency and allow electors to see who is supporting each candidate. It may help electors in determining who they would vote for.

It would also be beneficial for the Province to create a procedure manual for accountants to better understand the nuances of the MEA. This manual is available for provincial elections but is not yet available for municipal elections.
Voters’ List

With three levels of government all having their own lists, needs and requirements, it is unlikely that an amalgamated list will be developed anytime in the near future.

To assist municipalities the Municipal Clerks should be allowed to use any resource available to them in order to create a more accurate list. This has been suggested by many municipalities and is currently being considered by the Minister.

Professional Activity Day

The MEA requires school boards to provide their schools for polling on days that municipal and school board elections occur. For over 30 years municipalities have asked the school boards to declare a professional development day on Election Day.

With security in schools a greater issue today than ever before it would be prudent for school boards to ensure the safety of all students and teachers by making municipal Election Day a professional development day.

_____________________________
Kevin C. Christenson
City Clerk
Corporate Services
## Rebate Calculations for Participating Municipalities

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Minimum Contribution for Rebate</th>
<th>Formula One</th>
<th>Formula Two</th>
<th>Maximum rebate per Individual</th>
<th>Candidates and Spouses Eligible</th>
<th>Corporations and Trade Unions Eligible</th>
<th>Campaign Surplus to Municipality</th>
<th>2003 Rebates Paid</th>
<th>2006 Rebates Paid</th>
<th>% Increase or Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ajax</td>
<td>$25.00</td>
<td>Contribution between $25.00 and $75.00, rebate is 75%</td>
<td>Contribution greater than $100.00, rebate is $75.00 plus 50% of the difference between the total contribution and $100.00</td>
<td>$150.00</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>$18,000</td>
<td>$16,364</td>
<td>-9%</td>
</tr>
<tr>
<td>Markham</td>
<td>$50.00</td>
<td>Contribution $300.00 or less, rebate is 75%</td>
<td>Contribution greater than $300.00, rebate is 75% of $300.00 plus 50% of the difference between the total contribution and $300.00</td>
<td>$350.00</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>$149,700</td>
<td>$368,435</td>
<td>146%</td>
</tr>
<tr>
<td>Oakville</td>
<td>$25.00</td>
<td>Contribution of $25.00 or more, rebate is 50%</td>
<td>NA</td>
<td>$200.00</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>$19,205</td>
<td>$25,008</td>
<td>30%</td>
</tr>
<tr>
<td>Ottawa</td>
<td>$50.00</td>
<td>Contribution between $50.00 and $150.00, rebate is 75%</td>
<td>Contribution greater than $150.00, rebate is 75% of $150.00 plus 50% of the difference between the total contribution and $150.00</td>
<td>$187.50</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>$155,440</td>
<td>$503,322</td>
<td>224%</td>
</tr>
<tr>
<td>Toronto</td>
<td>$25.00</td>
<td>Contribution $300.00 or less, rebate is 75%, Contribution greater than $300.00 but not more than $1,000.00, rebate is $225.00 plus 50% of the difference between the total contribution and $300.00</td>
<td>Contribution greater than $1,000.00 rebate is lesser of $575.00 plus 33 1/3 % of the difference between the contribution and $1,000.00 or $1,000.00</td>
<td>$1,000.00</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>$3,200,000</td>
<td>$2,116,000</td>
<td>-34%</td>
</tr>
<tr>
<td>Winnipeg</td>
<td>$25.00</td>
<td>Contribution $300.00 or less, rebate is 75%, Contribution greater than $300.00 but not more than $1,000.00, rebate is $225.00 plus 50% of the difference between the total contribution and $300.00</td>
<td>Contribution greater than $1,000.00 rebate is lesser of $575.00 plus 33 1/3 % of the difference between the contribution and $1,000.00 or $1,000.00</td>
<td>$1,000.00</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Not Available</td>
<td>Not Available</td>
<td>Not Available</td>
</tr>
</tbody>
</table>