
Committee Members

Councillor J. Fullarton, Chair
Councillor J. Earle
Councillor L. Journal
Mayor D. Henderson,
Ex-Officio

Areas of Responsibility:

Finance
Clerk's Office
Human Resources
Legal

Joint Services Committee
Safe Communities
Coalition
Volunteer Awards

AGENDA

Page

CORRESPONDENCE

- 2-10
1. Letter from Mayor McGee, City of Kawartha Lakes
Re: Ministry of Environment - "Polluter Pays" Principle

See also attached motion from Councillor Noble.

STAFF REPORTS

- 11-15
1. 2010-085-06
2010 Capping and Threshold Options
- 16-27
2. 2010-090-06
2010 Tax Ratio Options
- 28-39
3. 2010-095-06
2010 Debt Capacity Limit
- 40-53
4. 2010-100-06
Joint Compliance Audit Committee

CONSENT AGENDA

MOTION TO MOVE INTO CLOSED SESSION

THAT pursuant to *Municipal Act*, 2001, Section 239 Sub (2)(e), the Committee resolve itself into the Committee of the Whole, In-Camera, closed to the public for the purpose of:

1. litigation or potential litigation, including matter before administrative tribunals, affecting the municipality or local board.



The Corporation of the
City of Kawartha Lakes

P.O. Box 9000, 26 Francis St.,
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rmcgee@city.kawarthalakes.on.ca

Ric McGee, Mayor

May 1st, 2010

Dear Head of Council and members of Council,

I am writing to you today to bring to your attention a very serious matter that will negatively impact all municipalities within Ontario if the practice I am about to bring to your attention becomes "Standard Operating Procedure" (SOP) for the Ministry of Environment.

From the attached briefing notes, you will see that a private property owner received a furnace oil delivery from a private business in December of 2008. A furnace oil leak ensued and clean up operations began, led by the private property owners insurance company and supervised by MOE personnel.

When the property owners insurance funds were exhausted, the MOE issued orders against the City of Kawartha Lakes, (the municipality) to assume responsibility (operationally and financially) for the entire cleanup of the road allowances and Sturgeon Lake, despite the fact that the municipality had no involvement or responsibility for the furnace oil leak occurring. This is clearly a matter of principle that we believe **"the polluter should pay" not the municipality and our property taxpayers!** Especially when they have acknowledged we are an innocent victim in this matter. If this becomes MOE standard practice, it may be your municipality and your constituents footing the bill for the next spill.

With the preceding in mind, on behalf of Kawartha Lakes Council, our solicitor has appealed the MOE orders to the Environmental Tribunal as we see these actions as unfair and potentially crippling to Ontario municipalities if this MOE practice continues. We appreciate AMO's support in sharing this concern through the AMO Watch File to date recognizing that this could be precedent setting for all municipalities.

The costs of defending, not only the City, but the rights of all municipalities is significant. Therefore, we would respectfully request that your Council consider investing a small, yet significant donation to this legal defense fund to ensure that no other municipality is placed in the position that Kawartha Lakes has been. If you would consider contributing even \$0.02 (two cents) per resident to the Defense Fund or a minimum of a \$500.00 contribution, it would greatly assist with our collective defense.

Further, should any surplus exist at the conclusion of legal proceedings, you have our commitment that these funds will be transferred to AMO with a request to consider the creation of a Municipal Legal Defense Fund to prepare for the next time a fund is needed by Ontario municipalities.

I am confident that you will see the need to work together to prevent this from affecting any other municipality. I would like to thank you in advance for your consideration and commitment to preventing Ontario municipalities from the unfair burden of increased responsibilities such as the one I have shared with you. Again, many thanks for your contribution and please feel free to contact me should you have any questions relating to this matter.

A handwritten signature in black ink, appearing to read 'Ric McGee', with a stylized flourish at the end.

Ric McGee, Mayor
City of Kawartha Lakes

RM:dw

EC: Members of Council
Jane Reynolds, CAO
Municipal Clerks



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Ric McGee, Mayor

February 17th, 2010

Association of Municipalities of Ontario (AMO)
200 University Ave., Suite 801
Toronto, ON M5H 3C6

Attention: Peter Hume, President

Dear Mr. Hume:

RE: 93 Hazel Street Oil Spill, Thurstonia, City of Kawartha Lakes

The Thurstonia spill has generated considerable attention in the local media as well as broader legal, regulatory and insurance circles regarding the implications for increased future municipal liability.

Following the release of approximately 700 litres of furnace oil from a private residence within the City of Kawartha Lakes, the City was served an order by the Ministry of the Environment to clean up the spill related contamination on an adjacent city roadway.

The spill occurred on December 18th, 2008 and the Order was served to the City on Friday March 27th, 2009. The City has since challenged the Order on the grounds that the municipality is an innocent party and the Order would better be served to any number of other parties having direct ownership, use or control of the pollutant. In response, the Environmental Tribunal has limited the municipality's right to put forward evidence to support our position. On November 20th, 2009, the Tribunal ruled that "all parties agree that the **City was and is an innocent owner**" and "the Tribunal is aware that **the City is not the polluter**". Nevertheless, the effect of the Tribunal's decision was to require the municipality to comply immediately with the Ministry of the Environment's remediation order, then attempt to recover the costs of doing so from the responsible parties.

As a result of the legal ruling, the City has since been forced to remediate the public property (road and shoreline) at considerable cost and will continue to bear the costs of ongoing monitoring and remediation directed by the Province.

The City has appealed this ruling to the Divisional Court on the basis of 2 prior Divisional Court rulings supporting its position, however, the cost to mount this challenge from a legal perspective could be significant and without any recourse for cost recovery. We believe that

this case has implications for every municipality in the Province. Imagine the implications of numerous spills that could occur on municipal roads and highways and the impending orders that would be issued by the MOE against Ontario municipalities if this practise is not stopped and stopped right now!.

We are appealing to the Province to enact legislative change to protect municipalities from being financially responsible for such clean ups and prevent municipalities from being forced to pursue legal costs from the very people we are mandated to serve. A copy of the Briefing Note we hope to present at the upcoming OGRA/ROMA conference to the Ministers of the Environment and Municipal Affairs and Housing is attached for your information.

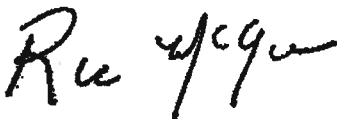
While we are hopeful the Province will address this unfairness, we are burdened with costs to defend our position and the position of all municipalities which, could result in serious ramifications for all Ontario municipalities. **Therefore, Council for the City of Kawartha Lakes is respectfully requesting that AMO support our cause and/or endorse a request to all municipalities to contribute to our legal costs because this defence is in defence of all Ontario municipalities.** The appeal before the Environmental Review Tribunal is set for April 2010, so time is of the essence.

This case will set a precedent and dictate, from a policy perspective, how the Province will deal with municipalities in the future. We believe the current stand is unfair and places a burden on innocent taxpayers with added liability and cost. It is for these reasons that the City has requested the advice and assistance of AMO (and AMO member municipalities) to appeal the Tribunal ruling. If our appeal is successful, there will be a significant financial burden eliminated for all municipalities in the Province, should a similar spill occur in another Ontario municipality.

We have also provided you with a copy of an article entitled "Tribunal Spurns 'Polluter Pays' Principle" that was published in The Lawyers Weekly by Dianne Saxe, an Environmental lawyer.

We recognize the importance of AMO's role in assisting and supporting municipalities from an advocacy perspective. We look forward to hearing from you no later than March 8th regarding your ability to either support our appeal and/or to suggest ways to pursue this with our colleagues so that we may consider our next steps. If you have any questions in this regard, please feel free to contact myself or Jane Reynolds, CAO at (705) 324-9411, ext. 1296. Otherwise, our thanks to you and the Board for considering this very important matter.

Yours truly



Ric McGee, MAYOR
City of Kawartha Lakes

CC: Council
Mr. Roger Anderson, Chair of Regional and Single Tier Caucus
Mr. Barry Devolin, M.P., Haliburton-Kawartha Lakes-Brock
Mr. Rick Johnson, M.P.P., Haliburton-Kawartha Lakes-Brock
Ms. Jane Reynolds, CAO, City of Kawartha Lakes

RM:dw



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SUBMISSION TO: **The Honourable John Gerretsen**
 Minister of the Environment

The Honourable Jim Bradley
 Ministry of Municipal Affairs & Housing

SUBJECT: **Thurstonia Oil Spill, City of Kawartha Lakes-**
 "Polluter Pays" Principle

RECOMMENDATION:

That the Ministries commit to changes in legislation to ensure "**Polluters Pay**" and a level of "**Fairness**" occurs for municipalities and other innocent victims of environmental spills.

BACKGROUND:

On December 18, 2008 a spill to the environment of approximately 700 litres of furnace oil from a private residence within the City of Kawartha Lakes occurred. On Friday March 27, 2009 at 4PM the City was served an order by the Ministry of the Environment to cleanup the spill related contamination on the adjacent city roadway and take measures to protect the adjacent lake from contamination. Since this time the City has incurred over \$300,000 in cleanup and investigation related costs to comply with the order.

At the same time the City has also legally challenged the appropriateness of being served the order on the grounds that they are an innocent party and the order would better be served to any number of other parties having direct ownership, use or control of the pollutant. In response, the Environmental Tribunal has limited the City's right to put forward evidence to support its position and on November 20, 2009 ruled that "**all parties agree that the City was and is an innocent owner**" and "**not the polluter**". Nevertheless, the effect of the Tribunal's decision was to require the municipality to comply immediately with the Ministry of the Environment's remediation order. It has then been left to us, the innocent owner, to then attempt to recover the costs of the remedial work from the responsible parties.

As a result of the legal ruling the City has been forced to investigate, remediate and monitor the public property (road and shoreline) at considerable cost and will continue to bear the costs of ongoing monitoring and remediation directed by the Province.

The City has appealed this ruling to the Divisional Court on the basis of two prior Divisional Court rulings supporting its position and the matter is scheduled to be heard in April of this year. However, the cost to mount this challenge from a legal perspective could be significant and without any recourse for cost recovery. The City is seeking support from AMO and other municipalities for legal costs, because all municipalities should be concerned that they may end up dealing with a similar situation should a spill occur adjacent to one of their roads and/or properties.

This case will set a precedent and dictate, from a policy perspective, how municipalities will be dealt with in the future. We believe it is unfair to burden innocent taxpayers with added liability and cost. If an appeal was successful there would be benefit to all municipalities in the province as well as the City should a similar situation re-occur.

This case has inspired considerable media attention as well as interest in the insurance and regulatory fields. We have provided a copy of a recent article entitled "Tribunal Spurns 'Polluter Pays' Principle" that was published in The Lawyers Weekly by Dianne Saxe, an Environmental lawyer

ISSUE:

As a result of a heating oil spill on a private residence (in which the City has been legally declared an **innocent party** by the Environmental Tribunal) the City has since been forced to remediate the public property (road and shoreline) at considerable cost and continues to bear the costs of ongoing monitoring and remediation directed by the Province... in spite of MOE's recognition that **the City is not the polluter**.

We would rather not legally challenge the Province. Instead, we are hopeful that it would be in the best interests of the Ministry of the Environment along with the Ministry of Municipal Affairs and Housing to work together to change legislation to protect municipalities and others and ensure municipalities are not placed in this very difficult situation.

CONCLUSION:

As a result of the legal ruling a precedent is being set as to how MOE may deal with municipalities with spills that occur adjacent to municipal properties and roads. We believe this approach is unfair and will burden innocent taxpayers with added liability and costs. Levels of Government should be working together to solve this concern for all municipalities, not only on this one issue, but for everyone in the future. **The polluter should pay...not an innocent party!**

TRIBUNAL SPURNS 'polluter pays' principle

the imposition of environmental liability. They therefore set aside most of an expensive cleanup order against innocent parties that had not caused the contamination of a bankrupt textile mill. *Appleton* was based on, and consistent with, nationwide principles on environmental liability adopted by the Canadian Council of Ministers of the Environment, meaning every Minister of the Environment in the country.

Now, however, the Environmental Review Tribunal has rejected the *Appleton* principles, and accepted the MOE's argument that fairness is largely irrelevant.

Kawartha Lakes (City) v. Ontario (Ministry of the Environment) [2009] O.E.R.T.D.

DIANNE
SAXE

Should the Ontario Ministry of the Environment (MOE) be allowed to impose unfair liability on innocent landowners instead of the parties who are actually responsible? What happened to "polluter pays" and to "fairness"?

Fifteen years ago, in *Ontario (Ministry of the Environment v. Energy) v. 724897 Ontario Inc. (Appleton)*, [1995] O.J. No. 3713, what was then the environmental appeal board and the Divisional Court insisted that fairness is a proper and relevant criterion for

No. 59 began with a furnace oil spill in the basement of Wayne and Liana Gendron on Dec. 18, 2008. Allegedly, they did not report the spill. Their home insurance company, Farmers' Mutual, retained a cleanup contractor, DL services, on Dec. 30. By then, spilled fuel had flowed through the municipal sewer system and culverts into Sturgeon Lake. The MOE issued a provincial officer's order requiring the Gendrons to clean up the spill.

Three months later, DL Services had exhausted the insurance, but furnace oil still contaminated municipal property, such as roadways, storm drains and the lakefront.

According to the city, "Each of the homeowner, Thompson,

Fuels, the homeowner's insurance adjuster, the Ministry of the Environment and the TSSA had an opportunity to prevent the fuel oil from reaching Sturgeon Lake, greatly reducing the remediation costs and virtually eliminating the need for an order being issued against the taxpayers of the City of Kawartha Lakes."

Provincial staff appear to have had a significant influence on how the insurance money was spent, and chose to spend none of it cleaning up municipal property.

The ministry then ordered the city to take over the cleanup of all municipal property. Adding insult to injury, the order was issued to the city in its capacity as landowner of the contaminated land under s. 157.1 of the *Environmental Protection Act* and not under the spill rules -- s. 97. If the cleanup order had been issued under s. 97, the city would have had certain protections from liability (s. 98), a right to compensation for its costs from those responsible (s. 99)

and a right to compensation from the provincial Crown (s. 101). It would also have had a clearer right to recover its costs and expenses using a cost recovery order under s. 100.1. Was it an accident that the province designed its order in a way that denied the municipality these rights and protections?

The city appealed the order. It wanted to argue that it is unfair to download the cleanup cost onto the innocent, heavily burdened municipal taxpayer. Instead, the cleanup cost should be imposed on, or at least shared by, those responsible for creating this spill and for allowing it to contaminate municipal property. The city also wished to argue that the insurance funds had been squandered.

On Nov. 20, 2009, the environmental review tribunal blocked the city from adducing evidence on these points. In essence, it ruled that allowing innocent parties to appeal orders because they don't fairly allocate liability could make its hearings

See *Kawartha* Page 15

EU regulation forces companies to manage chemical risks

Lawyers advising companies posed by chemicals and providing registration dossier, which must intended.

**It's in the
'Golds'**

Continued From Page 14

more costly and complex. This might interfere with the rapid imposition of environmental cleanup requirements. Innocent parties forced to pay environmental costs should seek their remedies, such as they may be, in the civil courts. If they are left without a remedy, that's unfortunate, but not the tribunal's concern. The tribunal stated:

"A detailed inquiry into fault would prejudice the ability of the Tribunal (and perhaps the Provincial Officer or Director in the first instance) to deal with environmental problems in a prompt and efficient manner..."

"At the end of the day, the EPA seeks to ensure that appropriate environmental measures are carried out by one or more of those who are properly named under the relevant ordering section and who have the capacity to do the work. While it may be interesting that others could have been named or that one party contributed to a problem less than others (or in the case of innocent owners, not at all), those are not really issues that are germane to the questions before the Tribunal."

"In many ways, the Tribunal is not the ultimate decider of whether a polluter, owner, beneficiary or other responsible person 'pays'...ultimate liability may

Dianne Sans is an environmental law specialist and heads the environmental law boutique Sans Law Office in Toronto.

Moved by: Councillor Noble

WHEREAS the City of Brockville has been concerned about the financial impact of Provincial decisions on local taxpayers on matters outside City Hall's control; and

WHEREAS the situation reported by the City of Kawartha Lakes as outlined in the attached letter is a particularly egregious example of such Provincial actions; and

WHEREAS the City of Kawartha has made a compelling case as to the potential impact the Provincial practice could have on the City; and

WHEREAS it is better to deal with this collectively and proactively than when confronted with an local example;

THEREFORE BE IT RESOLVED that the Corporation of the City of Brockville will contribute \$500 from the Fiscal Policy account to assist in the collective action to repeal this Provincial practice.

May 21, 2010

REPORT TO THE FINANCE & ADMINISTRATION COMMITTEE – JUNE 15, 2010

**2010-085-06
2010 CAPPING AND
THRESHOLD OPTIONS
FILE: F22-50**

**D. CYR
DIRECTOR OF FINANCE
L. FERGUSON
SUPERVISOR OF ACCOUNTING SERVICES
M. MCDONALD
FINANCIAL ADMINISTRATIVE ANALYST
D. SMITH, TAX COLLECTOR**

RECOMMENDATION:

THAT Council adopt the following measures for the 2010 tax year:

1. **THAT** the cost of mandatory capping for the multi-residential, commercial and industrial classes be revenue-neutral; self-financing within the property class; and
2. **THAT** the capping percentage for the multi-residential and commercial classes remain at 5% of the previous years annualized taxes; and
3. **THAT** the capping percentage for the industrial class be set at 10% of the previous years annualized taxes; and
5. **THAT** the threshold change option be continued at \$150 for multi-residential and commercial classes; and
6. **THAT** the industrial class threshold be returned to \$150; and
7. **THAT** when a property reaches full current value assessment it is removed from the capping/clawback system; and

THAT Council authorize the By-law to adopt the 2010 Capping Options for the Protected Property Classes [Attachment #1 to Report 2010-085-06].

PURPOSE

As per Section 329.1 of the Municipal Act and accompanying regulations, Council must authorize a by-law each year to establish the capping percentage and threshold for the protected classes.

BACKGROUND

In December 1998, the Provincial government passed Bill 79, The Fairness for Property Taxpayers Act. This Act, commonly known as 10-5-5, retroactively capped 1998 assessment related increases at 10% over 1997 levels in the commercial, industrial and multi-residential classes. Future increases were also capped at an additional 5% for 1999 and 5% for 2000.

Municipalities can determine how the capping program is to be financed through either

- (a) Self-financing within each property class, that is clawing back assessment related decreases on properties to pay for assessment related increases; or
- (b) To add the expense of the capping program onto the budget.

In the past, Brockville has chosen the self financing option, however in 2010 there was a shortfall in the industrial class. This shortfall of \$296 was added to the municipal levy.

In 2001, the Province passed Bill 140, the Continued Protection for Property Taxpayers Act. This continued the legislation of Bill 79 and limited the property tax increases to 5% per year until full current value assessment (CVA) is attained in each municipality.

As part of the 2004 Provincial budget process, legislation for 2005 tax years and beyond was authorized in Bill 83. This Bill allows municipalities more flexibility in the capping tools they choose to use for the protected classes.

Capping options currently available to municipalities include:

1. To continue with the current 5% increase of the prior year's annualized taxes
2. To increase the capped amount from 5% up to a maximum of 10% of the prior year's annualized taxes.
3. In addition, municipalities can impose a threshold. If the capped taxes are within \$1 to \$250 (as determined by municipality) of CVA taxes the property is taxed at CVA

These tools may be used on their own or in combination. They may also be applied differently to each of the protected tax classes. The options can change annually.

ANALYSIS

Capping

One ratepayer's gain is always at the expense of an offsetting ratepayer in regard to the capping options. A move toward full CVA is the ultimate goal. Full current value assessment allows the true value of the property, which is determined by MPAC, to set the taxes and does not continue the protection (cap) of some at the cost of others (clawback).

In 2009 Brockville determined that once a property reaches CVA it is removed from the capping/clawback process. In 2010, the multi-residential and industrial properties are at full CVA. The commercial class has approximately 160 properties, about 30% of the properties in the class, which are still within the protected category.

Items to Consider

1. If an insufficiency in a property class is created by changing the cap it will impact the budget.
2. Each class can be treated individually however, whenever possible, it is less confusing for taxpayers and staff if the capping is applied to all classes in the same manner.
3. In 2009, the processing of reassessments changed. For all property classes, assessment increases are phased in over a four year period and assessment decreases took effect immediately.
4. The Introduction of New Property Classes:
 - a. The City of Brockville has adopted the New Multi-residential class for new construction which has a ratio of 1 – the same as residential.
 - b. The Province has created tax classes for new construction properties in the commercial, shopping centre, office building, industrial and large industrial classes. This is in conjunction with the introduction of lower education rates to encourage growth in these economic areas.

Threshold

In addition to capping percentages, the Municipality may pass a by-law to move capped properties whose revised taxes falls within \$250 (or a lower specified amount) of current value assessment to full CVA.

Threshold changes allow some property owners who were previously being clawed back to retain more of their dollars but it lessens the buffer of those facing higher increases. For each person that could benefit by the introduction of thresholds, another will be at a disadvantage.

For the multi-residential and commercial class no change is recommended in the \$150 threshold but for the industrial class it is recommended that the threshold be returned to \$150 from \$250. There is only one property in the industrial class that requires a threshold to maintain it at CVA.


FINANCIAL CONSIDERATIONS

There are no financial implications for the municipality.

CONCLUSION


Capping and thresholds are another component necessary for setting the annual tax rate. The Province has allowed municipalities flexibility in the use of these tools. With properties coming to full current value assessment it is hoped that in the next few years, barring any massive changes in legislation, that capping will become unnecessary.



D. Smith, Revenue Accountant

M. McDonald, Financial
Administrative Analyst

L. Ferguson,
Supervisor of Accounting Services

D. Cyr, Director of Finance

B. Casselman, City Manager

THE CORPORATION OF THE CITY OF BROCKVILLE

By-Law Number 0xx-2010

By-law to adopt the 2010 Capping option for the Protected Property Classes

WHEREAS the Province of Ontario introduced property tax capping options for 2005 and future years in the 2004 Ontario Budget;

AND WHEREAS it is necessary for the Council of the City of Brockville pursuant to Section 329.1 of the Municipal Act and accompanying regulations to establish a Capping threshold for The Protected Property Classes of Commercial, Industrial and Multi-Residential property classes;

NOW THEREFORE be it enacted that:

The 2010 annual cap for commercial and multi-residential classes will be set at 5% (five percent) of the previous year's annualized taxes;

AND that the 2010 annual cap for the industrial class will be set at 10% (ten percent) of the previous year's annualized taxes;

AND that in the commercial, industrial and multi-residential classes that the Current Value Assessment (CVA) Threshold for capped properties whose 2010 revised taxes fall within \$150.00 of the current years' CVA tax will be moved to full current value assessment;

AND that in the commercial, industrial and multi-residential classes that the CVA Threshold for clawed back properties whose 2010 revised taxes fall within the \$150.00 of the current years' CVA tax will be moved to full current value assessment;

AND that any insufficiency in the self-financing cap shall be added to the 2010 levy;

AND that when a property in the protected classes of commercial, industrial or multi-residential reach full CVA it is removed from the capping and clawback system;

AND this by-law shall come into force and take effect immediately following third reading.

Given under the Seal of the
Corporation of the City of Brockville
and passed this 22nd day of June

MAYOR

CLERK

June 3, 2010

REPORT TO FINANCE & ADMINISTRATION COMMITTEE – JUNE 15, 2010

**2010-090-06
2010 TAX RATIO OPTIONS
FILE: F22-42D**

**D. CYR
DIRECTOR OF FINANCE
L. FERGUSON
SUPERVISOR OF ACCOUNTING SERVICES
M. MCDONALD
FINANCIAL ADMINISTRATIVE ANALYST
D. SMITH, TAX COLLECTOR**

RECOMMENDATION

That Council authorize the tax ratios for all classes as per the attached schedule for the 2010 tax year; and

That Council authorize the By-law to set the tax ratios for all classes for 2010 [Attachment #6 to Report 2010-090-06].

PURPOSE

As per Section 308 of the Municipal Act, Council must authorize a by-law each year to establish the tax ratios for that year for the municipality.

BACKGROUND

The municipal portion of the tax rate of each property class is set in relation to the residential class. The residential ratio is always 1. If the commercial municipal tax rate is twice that of the residential, then the commercial ratio is 2. For 2009 the City of Brockville's commercial ratio was 1.958715 times the residential rate.

In 1998 when assessment and taxation reform was introduced, the Province provided transition tax ratios. The initial ratio was a reflection of the tax burden of each property class prior to tax reform. It kept the taxes expected from each class "status quo".

Single tier municipalities and upper tier municipalities have the ability to change tax ratios. A change in the ratio of any property class will shift the tax burden borne by all property classes.

As reassessment is in year 2 of the 4 year phase-in, the Province has provided new revenue neutral ratios. These ratios prevent the shifting of the tax burden from one class to another, maintaining the levy distribution at 2009 levels. It is important to note that the industrial revenue neutral ratio is above the provincial average. If adopted that

would mean the there would be a levy restriction on this class. Due to this levy restriction, the revenue neutral ratio is not recommended.

ANALYSIS

In 2009 the City reduced both the multi-residential and commercial ratios.

A new property tax class of “new multi-residential”, with a ratio of 1 (the same as residential) was established September 25, 2007. This class was adopted in support of the New Canada-Ontario Affordable Housing Program. At this time there are no properties in this class.

At the same time, Council agreed to review the “regular” multi-residential property class annually and phase in a ratio reduction over several years that would bring the existing multi-residential properties from a ratio of 1.85 (the 2007 ratio) to 1. In 2009 the multi-residential ratio was reduced to 1.782.

At this time Brockville is below the Provincial average for the commercial property class as defined by the Ministry of Finance. The Provincial average is 1.98; in comparison to the City’s commercial ratio which was reduced to 1.958715.

Attachment 1 is a table that shows the impact on typical properties within Brockville based upon information from the Online Property Tax Analysis (OPTA). This table has no changes to the ratios from 2009 but it does include the changes in the assessments based upon the second year of the phase-in of reassessment, education rate (as set by the Province) and potential municipal tax rate. The average assessment has been determined by the Ministry of Finance OPTA program.

Attachment 2 is a table that shows the impact on typical properties but it includes small changes in the multi-residential ratio (from 1.782 to 1.78) and the commercial ratio (from 1.958715 to 1.958).

Staff is recommending these slight ratio changes for several reasons:

- Council’s previous direction to phase in ratio reduction to multi-residential tax class
- to work towards a more competitive commercial rate
- minimum impact on the other tax classes as illustrated on Attachments 3 - 5

FINANCIAL CONSIDERATIONS

The Provincial Government has decreased the education tax rates for all property classes in 2010. These reductions in the education rate along with the assessment growth for Brockville will help to mitigate any tax shift cause by municipal tax ratio changes.

There is no financial consideration to the City of Brockville's budget. The same amount of taxes will be collected but shifted from one class to another.

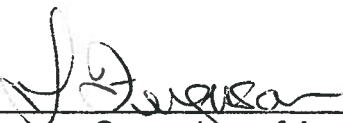
CONCLUSION


The tax ratio is one of the components necessary for setting the annual tax rate. The Province has given single tier municipalities some input into determining their tax ratios.

This allows individual municipalities the flexibility they need to influence the impacts of reassessment being attentive of the provincial rules with regards to levy restrictions and tax shifts as well as to be economically competitive.


D. Smith, Revenue Accountant


M. McDonald, Financial Administrative Analyst


L. Ferguson, Supervisor of Accounting Services


D. Cyr, Director of Finance


B. Casselman, City Manager

Tax Impacts on Average Typical Property
[no change in the tax ratio]

statistics provided by The Ministry of Finance On-line Property Analysis Website

Property Description	2009 Average CVA	2010 Average CVA	% CVA Change	% Change Mun Tax	% Change Ed Tax	% Change Total Tax
Single Family Home RT	154,500	162,000	4.85%	3.50%	0.28%	2.99%
Small Office Bldg CT (single tenant or owner occupied under 7,500 sq. ft.)	295,500	335,000	13.37%	11.90%	7.20%	9.79%
Small Retail Commercial CT (one storey retail under 10,000 sq. ft.)	251,250	254,500	1.29%	-0.02%	-4.22%	-1.90%
Standard Industrial IT (not identified by type or use)	792,071	824,663	4.11%	2.77%	-0.05%	1.69%
		1.958	1.3706			

Tax Impacts on Average Typical Property
[change Multi-Res from 1.782 to 1.78 and Comm from 1.958715 to 1.958]
 statistics provided by The Ministry of Finance On-line Property Analysis Website

Property Description	2009 Average CVA	2010 Average CVA	% CVA Change	% Change Mun Tax	% Change Ed Tax	% Change Total Tax
Single Family Home RT	154,500	162,000	4.85%	3.52%	0.28%	3.00%
Small Office Bldg CT (single tenant or owner occupied under 7,500 sq. ft.)	295,500	335,000	13.37%	11.88%	7.20%	9.78%
Small Retail Commercial CT (one storey retail under 10,000 sq. ft.)	251,250	254,500	1.29%	-0.03%	-4.22%	-1.91%
Standard Industrial IT (not identified by type or use)	792,071	824,663	4.11%	2.79%	-0.05%	1.70%

Comparison of Reducing Tax Ratio for Multi-Residential Property Class

1.782 Multi-Residential Tax Ratio (No Change)

	<u>Notional Percentage change in mun tax rate between 2009 & 2010</u>	<u>Actual Percentage change in mun tax rate between 2009 & 2010</u>	<u>2009 Actual municipal & school taxes per \$ 100,000</u>	<u>2010 Potential municipal & school taxes per \$ 100,000</u>	<u>Difference</u>
Residential	4.47%	-1.33%	\$ 1,590.63	\$ 1,561.85	\$ (28.78) -1.81%
Multi-Residential	4.47%	-1.33%	\$ 2,637.44	\$ 2,594.75	\$ (42.69) -1.62%
Commercial	4.47%	-1.33%	\$ 4,760.86	\$ 4,609.58	\$(151.27) -3.18%
Industrial	4.47%	-1.33%	\$ 5,703.09	\$ 5,568.97	\$(134.12) -2.35%

1.78 Multi-Residential Tax Ratio

	<u>Notional Percentage change in mun tax rate between 2009 & 2010</u>	<u>Actual Percentage change in mun tax rate between 2009 & 2010</u>	<u>2009 Actual municipal & school taxes per \$ 100,000</u>	<u>2010 Potential municipal & school taxes per \$ 100,000</u>	<u>Difference</u>
Residential	4.48%	-1.32%	\$ 1,590.63	\$ 1,561.97	\$ (28.66) -1.80%
Multi-Residential	4.36%	-1.43%	\$ 2,637.44	\$ 2,592.32	\$ (45.12) -1.71%
Commercial	4.48%	-1.32%	\$ 4,760.86	\$ 4,609.81	\$(151.04) -3.17%
Industrial	4.48%	-1.32%	\$ 5,703.09	\$ 5,569.28	\$(133.81) -2.35%

Comparison of Reducing Tax Ratio for Commercial Property Class

1.958715 Commercial Tax Ratio (No Change)

	Notional Percentage change in mun tax rate between 2009 & 2010	Actual Percentage change in mun tax rate between 2009 & 2010	2009 Actual municipal & school taxes per \$ 100,000	2010 Potential municipal & school taxes per \$ 100,000	Difference
Residential	4.47%	-1.33%	\$ 1,590.63	\$ 1,561.85	\$ (28.78) -1.81%
Multi-Residential	4.47%	-1.33%	\$ 2,637.44	\$ 2,594.75	\$ (42.69) -1.62%
Commercial	4.47%	-1.33%	\$ 4,760.86	\$ 4,609.58	\$(151.27) -3.18%
Industrial	4.47%	-1.33%	\$ 5,703.09	\$ 5,568.97	\$(134.12) -2.35%

1.958 Commercial Tax Ratio

	Notional Percentage change in mun tax rate between 2009 & 2010	Actual Percentage change in mun tax rate between 2009 & 2010	2009 Actual municipal & school taxes per \$ 100,000	2010 Potential municipal & school taxes per \$ 100,000	Difference
Residential	4.48%	-1.32%	\$ 1,590.63	\$ 1,561.98	\$ (28.65) -1.80%
Multi-Residential	4.48%	-1.32%	\$ 2,637.44	\$ 2,594.98	\$ (42.46) -1.61%
Commercial	4.44%	-1.35%	\$ 4,760.86	\$ 4,608.89	\$(151.97) -3.19%
Industrial	4.48%	-1.32%	\$ 5,703.09	\$ 5,569.30	\$(133.79) -2.35%

Comparison of Reducing Tax Ratio for both the Multi-Residential and Commercial Property Classes

1.782 Multi-Residential Tax Ratio and 1.958715 Commercial Tax Ratio (No Change)

	Notional Percentage change in mun tax rate between 2009 & 2010	Actual Percentage change in mun tax rate between 2009 & 2010	2009 Actual municipal & school taxes per \$ 100,000	2010 Potential municipal & school taxes per \$ 100,000	Difference \$ (28.78) -1.81%
Residential	4.47%	-1.33%	\$ 1,590.63	\$ 1,561.85	\$ (28.78) -1.81%
Multi-Residential	4.47%	-1.33%	\$ 2,637.44	\$ 2,594.75	\$ (42.69) -1.62%
Commercial	4.47%	-1.33%	\$ 4,760.86	\$ 4,609.58	\$ (151.27) -3.18%
Industrial	4.47%	-1.33%	\$ 5,703.09	\$ 5,568.97	\$ (134.12) -2.35%

1.78 Multi-Residential Tax Ratio and 1.958 Commercial Tax Ratio

	Notional Percentage change in mun tax rate between 2009 & 2010	Actual Percentage change in mun tax rate between 2009 & 2010	2009 Actual municipal & school taxes per \$ 100,000	2010 Potential municipal & school taxes per \$ 100,000	Difference \$ (28.54) -1.79%
Residential	4.49%	-1.31%	\$ 1,590.63	\$ 1,562.09	\$ (28.54) -1.79%
Multi-Residential	4.37%	-1.42%	\$ 2,637.44	\$ 2,592.55	\$ (44.89) -1.70%
Commercial	4.45%	-1.35%	\$ 4,760.86	\$ 4,609.12	\$ (151.74) -3.19%
Industrial	4.49%	-1.31%	\$ 5,703.09	\$ 5,569.61	\$ (133.48) -2.34%

THE CORPORATION OF THE CITY OF BROCKVILLE

By-law Number 2010-0xx

By-law to Set Tax Ratios for the City of Brockville for the Year 2010

WHEREAS it is necessary for the Council of the City of Brockville, pursuant to the Municipal Act Section 308 to establish the tax ratios for 2010 for the City of Brockville;

AND WHEREAS the tax ratios determine the relative amount of taxation to be borne by each property class;

AND WHEREAS the property classes have been prescribed by the Minister of Finance under the Assessment Act as amended by Bill 140, the Continued Protection for Property Tax Payers Act, 2000 and Regulations thereto;

AND WHEREAS the City of Brockville has deemed it expedient not to adopt optional classes as part of the Province's originally suggested tools;

AND WHEREAS the City of Brockville has adopted the mainline classes of Residential/Farm class, Multi-Residential class, Commercial class, Industrial class, Pipelines class, Farmlands class and Managed Forest class

AND established the New Multi-Residential Property class as part of its Affordable Housing Program

NOW THEREFORE be it enacted that:

1. The ratios for these classes be adopted as follows:
 - a) the residential/farm property class is 1.000000
 - b) the new multi-residential property class is 1.000000
 - b) the multi-residential property class is 1.780000
 - c) the commercial property class is 1.958000
 - d) the industrial property class is 2.627561
 - e) the pipelines property class is 1.813224
 - f) the farmlands property class is 0.250000
 - g) the managed forest property class is 0.250000

-
2. That the ratios for the sub classes as shown on the assessment roll be adopted at the ratios as follows:
 - a) the commercial office building property class is 1.958000
 - b) the commercial shopping centre property is 1.958000
 - c) the parking lot property class is 1.958000
 - d) the large industrial property class is 2.627561
 3. For the purposes of this By-Law the tax ratio for
 - a) vacant land, vacant units and excess land subclasses, which are commercial property, is 70% of the commercial property class tax ratio (1.370600);
 - b) vacant land, vacant units and excess land subclasses which are industrial property, is 65% of the industrial property class tax ratio (1.707915);
 - c) the industrial property class includes all large industrial property.
 4. This By-Law shall come into force and take effect immediately following third reading.

Given under the Seal of the
Corporation of the City of Brockville
and passed this Day of June, 2010

MAYOR

CLERK

Tax Policies

The following table summarizes the tax ratios ranking across the survey for each of the classes.

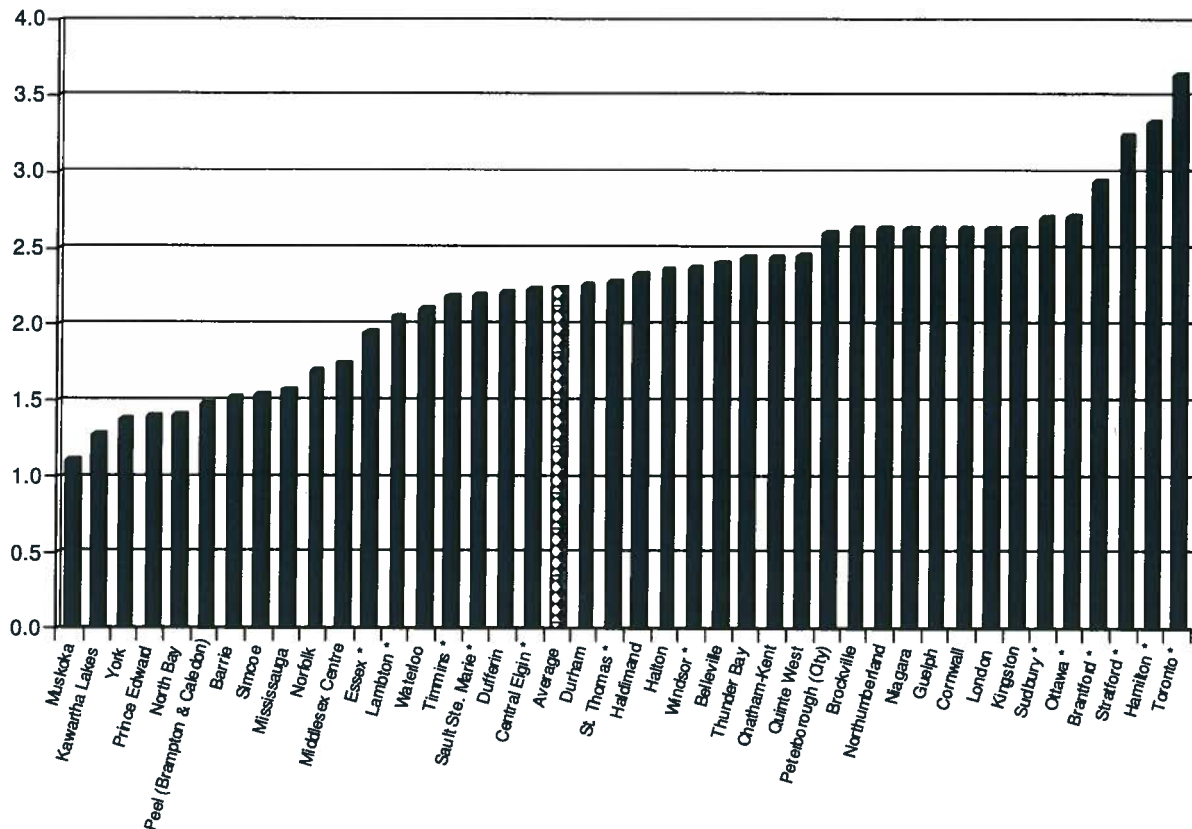
Municipality	Multi-Residential	Commercial (Residual)	Industrial (Residual)	Industrial (Large)
Barrie	1.0787	1.4331	1.5163	
Belleville	2.5102	1.9191	2.4000	
Brantford *	2.1355	1.9360	2.9334	
Brockville	1.7820	1.9587	2.6276	
Central Elgin *	2.3458	1.6376	2.2251	2.8318
Chatham-Kent	2.1488	1.9671	2.4350	
Cornwall	2.3492	1.9650	2.6300	
Dufferin	2.6802	1.2200	2.1984	
Durham	1.8665	1.4500	2.2598	
Essex *	1.9554	1.0697	1.9425	2.6861
Guelph	2.5965	1.8400	2.6300	
Haldimand	2.3274	1.6929	2.3274	
Halton	2.2619	1.4565	2.3599	
Hamilton *	2.7400	1.9950	3.3326	3.9078
Kawartha Lakes	1.9797	1.2775	1.2775	
Kingston	2.6112	1.9800	2.6300	
Lambton *	2.5014	1.6488	2.0535	3.0122
London	2.1240	1.9800	2.6300	
Middlesex Centre	1.7697	1.1449	1.7451	
Mississauga	1.7788	1.4098	1.5708	
Muskoka	1.0000	1.1000	1.1000	
Niagara	2.0600	1.7586	2.6300	
Norfolk	1.6929	1.6929	1.6929	
North Bay	2.2054	1.8822	1.4000	
Northumberland	2.2160	1.5152	2.6300	
Ottawa *	1.7000	1.9893	2.7000	2.3186
Oxford	2.7400	1.9018	2.6300	
Peel (Brampton & Caledon)	1.7050	1.2971	1.4700	
Peterborough (City)	2.0111	1.8204	2.5976	
Prince Edward	1.4402	1.1125	1.3895	
Quinte West	2.1300	1.5385	2.4460	2.6147
Sault Ste. Marie *	1.2747	1.7551	2.1866	3.1157
Simcoe	1.5385	1.2521	1.5385	
St. Thomas *	2.4987	1.9475	2.2807	2.6774
Stratford *	2.1539	2.0825	3.2395	
Sudbury *	2.1405	1.8865	2.6924	3.0517
Thunder Bay	2.7400	1.9527	2.4300	2.6275
Timmins *	1.6816	1.7501	2.1783	2.7114
Toronto *	3.4689	3.4050	3.6400	
Waterloo	2.0500	1.9500	2.1000	
Windsor *	2.5500	1.9826	2.3675	3.1631
York	1.0000	1.2070	1.3737	
Average	2.0843	1.7086	2.2485	2.8932
Maximum	3.4689	3.4050	3.6400	3.9078
Minimum	1.0000	1.0697	1.1000	2.3186
Provincial Threshold	2.7400	1.9800	2.6300	2.6300

* denotes municipalities with one or more ratios above the Provincial Threshold

The highlighted cells reflect changes in tax ratios between 2008 and 2009

XXX reflects increase in tax ratios
 XXX reflects decrease in tax ratios

Trends and Observations - Industrial (residual) Tax Ratios



- With the exception of Brantford, Hamilton, Ottawa, Stratford, Sudbury and Toronto, all municipalities have a residual Industrial Tax Ratio at or below the Provincial Threshold of 2.63.
- The District of Muskoka is the only municipality that falls within the Provincial Range of Fairness.
- 9 of the 41 municipal entities decreased their Industrial Tax Ratio in 2009 including Belleville, Central Elgin, Hamilton, Kawartha Lakes, Lambton, North Bay, Ottawa, Toronto, and Waterloo.

JUNE 7, 2010

REPORT TO FINANCE ADMINISTRATION COMMITTEE – JUNE 15, 2010

**2010-095-06
2010 DEBT CAPACITY LIMIT**

**D. CYR
DIRECTOR OF FINANCE
L. FERGUSON
SUPERVISOR OF ACCOUNTING SERVICES
C. WARD
TREASURY OFFICER – RESERVES & CAPITAL**

RECOMMENDATION

THAT the Debt Capacity Limit for 2010, as calculated and updated by the Treasurer be received.

PURPOSE

To inform Council of the debt repayment limit calculated by the Ministry of Municipal Affairs and Housing, which has subsequently been updated by the Treasurer as required under Ontario Regulation 403/02.

BACKGROUND

Each year, the Ministry of Municipal Affairs and Housing (MMAH) determines the Municipality's Annual Debt Repayment Limit [Attachment 1 to Report # 2010-095-06]. This limit is calculated as prescribed under Ontario Regulation 403/02 [Attachment 2 to Report # 2010-095-06]. Information obtained from a previous year's Financial Information Return (FIR) is used in the determination of this limit. For this year, the information is obtained from the 2008 FIR. Regulation 403/02 also requires that the Treasurer update this calculation [Attachment 3 to Report # 2010-095-06] with more recent information before the issuance of any new long term debt instrument (i.e. debentures).

ANALYSIS

The Unadjusted Annual Repayment Limit for 2010 provided by MMAH \$ 6,381,227

Treasurer's Adjustments:

Debt

Add: Debt Charges for Debt Matured in 2008	\$	0
Debt Charges for Debt Matured in 2009		0

Less: 2008 Debenture Issue Debt Charges	(58,151)
2009 Debenture Issue Debt Charges	(137,258)
2005 & 2006 projects left to be debentured	(1,874)
2010 Debenture Issue Debt Charges – estimated	(279,141)
Estimated Short-term borrowing – Solar Project	(135,000)
Estimated Debt Charges for the WPCC Upgrade	(566,910)

Financial Commitments

Less: St. Lawrence College (2008-2011)	(37,500)
Xerox lease agreement	(36,001)
Police vehicle lease (4 year lease)	(6,870)
Brockville General Hospital – Physician Recruitment	(21,000)
Brockville General Hospital (5 year commitment from 2009-2013)	(10,000)
Kingston General Hospital (5 year commitment from 2009-2013)	(25,000)
Maritime Discovery Centre (MDC)	(2,920,000)

Adjusted Annual Repayment Limit for 2010: \$ 2,146,522

The Adjusted Annual Repayment Limit for 2010 of \$2,146,522 equates to:

<u>Term</u>	<u>Interest Rate</u>	<u>Amount</u>
10 year Debenture Issue	6.0 %	\$ 15,798,588


This reflects the maximum amount of new debentures that may be issued according to Provincial Regulations. This does not indicate Brockville's ability or capacity to assume this debt and its annual debt charges.

FINANCIAL CONSIDERATIONS

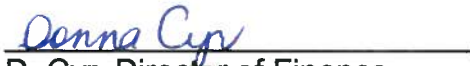
There are no financial considerations at this time

CONCLUSION

The debt charge capacity calculated by the Province and as adjusted by the Treasurer is effective January 1, 2010.


C. Ward, Treasury Officer –
Reserves & Capital


L. Ferguson, Supervisor of
Accounting Services


D. Cyr, Director of Finance


B. Casselman, City Manager

**TREASURERS CALCULATION OF THE CITY'S ANNUAL DEBT CAPACITY BASED ON THE PROVINCIAL
CALCULATION METHODS AND INFORMATION PROVIDED BY THE PROVINCE**

Attachment 1 to Report # 2010-095-06

DETERMINATION OF ANNUAL DEBT REPAYMENT LIMIT

UPDATED JUNE 7, 2010

AS PER PROVINCIAL REGULATION 403/02

CALCULATION OF ANNUAL REPAYMENT LIMIT

2008

10.0 TOTAL REVENUE FUND REVENUES per FIR 43,377,679

ADD:

10.1 FEES AND REVENUES FOR SOCIAL HOUSING 0

LESS:

11.0 FEES FOR REPAYING THE PROVINCE FOR DOWNTOWN
REVITALIZATION LOANS 0

12.0 FEES FOR TILE DRAINAGE & SHORELINE ASSISTANCE 0

13.0 GRANTS FROM GOVERNMENT OF ONTARIO, GOVERNMENT OF
CANADA AND OTHER MUNICIPALITIES

13.1 ONTARIO GRANTS -3,661,617

13.2 CANADA GRANTS -27,260

13.3 OTHER MUNICIPALITIES -827,402

13.4 SUB-TOTAL Lines 13.1;13.2;13.3 -4,516,279

14.0 FEES AND REVENUES FOR JOINT LOCAL BOARDS FOR
HOMES FOR THE AGED

15.0 NET REVENUE FUND REVENUES 38,861,400

18.0 25% OF NET REVENUE FUND REVENUE 9,715,350

19.0 ANNUAL REPAYMENT LIMIT

(a) 25% of Net Revenue Fund Expenditures: City Debt Capacity 9,715,350

(b) Less: 2008 Net Debt Charges -3,334,123

ANNUAL REPAYMENT AMOUNT AVAILABLE FOR 2010 PER MMAH: 6,381,227

TREASURER'S ADJUSTMENTS:

DEBT:

Add:

Debt Charges for Debt Maturing In 2008 0

Debt Charges for Debt Maturing In 2009 0

Less:

2008 Debenture Issue Debt Charges -58,151

2009 Debenture Issue Debt Charges -137,258

Remaining 2005 & 2006 capital projects to be debentured -1,874

2010 Proposed Debenture Issue Debt Charges -279,141

Estimated short-term borrowing charges re: Solar Project -135,000

Estimated Debt Charges for the Secondary Treatment Upgrade to the WPCC (25
yrs @ 5%) -566,910

FINANCIAL COMMITMENTS:

Add:

Less:

St. Lawrence College 2010 - 2011 -37,500

Xerox lease agreement -36,001

Police vehicle lease (4 year lease) -6,870

Brockville General Hospital (5 year commitment) -10,000

Brockville General Hospital - Physician Recruitment -21,000

Kingston General Hospital (5 year commitment) -25,000

Maritime Discovery Centre -2,920,000

ADJUSTED ANNUAL REPAYMENT AMOUNT AVAILABLE FOR 2010: 2,146,522

**ADDITIONAL DEBENTURES IN THE FOLLOWING AMOUNTS COULD BE ISSUED
AT THE INDICATED INTEREST RATE AND AMORTIZATION:**

RATE OF INTEREST	YEARS TO AMORTIZE	ADDITIONAL DEBENTURES
6.00%	10	15,798,588

Certificate of the Treasurer

I, Donna Cyr, Treasurer of the City of Brockville in the County of Leeds do hereby certify that annual payments relating to the net capital cost of the works plus the annual debt payments relating to all other capital projects proposed by the municipality are within the annual debt repayment limit established by the Ministry of Municipal Affairs and Housing under Ontario Regulation 403/02 and therefore OMB approval is not required.

Dated and signed in the City of Brockville this th day of June 2010


Donna Cyr, Treasurer

Ministry of Municipal Affairs and Housing
777 Bay Street,
Toronto, Ontario.
MSG 2E5

Ministère des affaires municipales et du logement
777 rue Bay
Toronto (Ontario)
MSG 2E5

ANNUAL REPAYMENT LIMIT

(UNDER ONTARIO REGULATION 403/02)

MMA CODE:	56101
MUNID:	7015
MUNICIPALITY:	Brockville C
UPPER TIER:	n.a.
REPAYMENT LIMIT:	C \$6,381,227

The repayment limit has been calculated based on data contained in the 2008 Financial Information Return, as submitted to the Ministry. This limit represents the maximum amount which the municipality had available as of December 31, 2008 to commit to payments relating to debt and financial obligations. Prior to the authorization by Council of a long term debt or financial obligation, this limit must be adjusted by the Treasurer in the prescribed manner. The limit is effective January 01, 2010.

FOR ILLUSTRATION PURPOSES ONLY,

the additional long-term borrowing which a municipality could undertake over a 5-year, a 10-year, a 15-year and a 20-year period is shown.

DETERMINATION OF ANNUAL DEBT REPAYMENT LIMIT

MUNICIPALITY: Brockville C

MMAH CODE: 56101

1.0	GROSS DEBT CHARGES		
1.1	Principal	SLC 74 3099 01	1,990,740
1.2	Interest	SLC 74 3099 02	1,343,383
1.3	SUBTOTAL	Add Lines 1.1, 1.2	3,334,123
2.0	DEBT CHARGES ON O.C.W.A. PROVINCIAL PROJECT		
2.1	Water Projects -- this municipality only	SLC 74 2810 03	0
2.2	Water Projects -- share of integrated project(s)	SLC 74 2820 03	0
2.3	Sewer Projects -- this municipality only	SLC 74 2830 03	0
2.4	Sewer Projects -- share of integrated project(s)	SLC 74 2840 03	0
2.5	SUBTOTAL	Add Lines 2.1 thru 2.4	0
3.0	PAYMENT IN RESPECT OF LONG TERM COMMITMENTS AND LIABILITIES		
		SLC 42 6010 01	0
4.0	SUBTOTAL - DEBT CHARGES	Add Lines 1.3,2.5,3.0	3,334,123
5.0	AMOUNTS RECOVERED FROM UNCONSOLIDATED ENTITIES		
5.1	Electricity (Principal)	SLC 74 3030 01	0
5.2	Electricity (Interest)	SLC 74 3030 02	0
5.3	Gas and Telephone (Principal)	SLC 74 3040 01 + SLC 74 3050 01	0
5.4	Gas and Telephone (Interest)	SLC 74 3040 02 + SLC 74 3050 02	0
5.5	SUBTOTAL	Add Lines 5.1 thru 5.4	0
6.0	PAYMENTS TO PROVINCE FOR DOWNTOWN REVITALIZATION PROGRAM LOANS		
		SLC 42 5410 01	0
7.0	DEBT CHARGES FOR TILE DRAINAGE AND SHORELINE ASSISTANCE		
		SLC 40 1850 02 + SLC 40 1850 08	0
8.0	SUBTOTAL - DEBT CHARGES TO BE EXCLUDED	Add Lines 5.5,6.0,7.0	0
9.0	NET DEBT CHARGES		3,334,123

DETERMINATION OF ANNUAL DEBT REPAYMENT LIMIT

MUNICIPALITY: Brockville C

MMAH CODE: 56101

10.0	TOTAL REVENUE FUND REVENUES	SLC 10 9910 01	43,377,679
11.0	FEES FOR REPAYING THE PROVINCE FOR DOWNTOWN REVITALIZATION LOANS	SLC 42 5410 01	0
12.0	FEES FOR TILE DRAINAGE AND SHORELINE ASSISTANCE	SLC 12 1850 04	0
13.0	GRANTS FROM GOVERNMENT OF ONTARIO, GOVERNMENT OF CANADA AND OTHER MUNICIPALITIES		
13.1	Ontario Grants	SLC 10 0699 01 + SLC 10 0810 01	3,661,617
13.2	Canada Grants	SLC 10 0820 01	27,260
13.3	Other Municipalities	SLC 10 1099 01	827,402
13.4	SUBTOTAL	Add Lines 13.1 thru 13.3	4,516,279
14.0	FEES AND REVENUES FOR JOINT LOCAL BOARDS FOR HOMES FOR THE AGED		0
15.0	NET REVENUE FUND REVENUES	Lines 10 less Lines 11,12,13.4,14	38,861,400
16.0	25% OF NET REVENUE FUND REVENUE		9,715,350
17.0	ANNUAL REPAYMENT LIMIT 25% of Net Revenue Fund Revenues less Net Debt Charges		6,381,227

SLC denotes Schedule, Line, Column

FOR ILLUSTRATION PURPOSES ONLY

If the municipality could borrow at 7.0% or 9.0% annually, the annual repayment limit shown in Line 17 above would allow it to undertake additional long-term borrowing as follows:

<u>7.0% Interest Rate:</u>	
(a)	20 years @ 7.0% p.a. 67,602,810
(b)	15 years @ 7.0% p.a. 58,119,667
(c)	10 years @ 7.0% p.a. 44,819,068
(d)	05 years @ 7.0% p.a. 26,164,291
<u>9.0% Interest Rate:</u>	
(a)	20 years @ 9.0% p.a. 58,251,322
(b)	15 years @ 9.0% p.a. 51,437,083
(c)	10 years @ 9.0% p.a. 40,952,531
(d)	05 years @ 9.0% p.a. 24,820,748



Municipal Act, 2001
Loi de 2001 sur les municipalités

ONTARIO REGULATION 403/02

DEBT AND FINANCIAL OBLIGATION LIMITS

Consolidation Period: From March 29, 2010 to the e-Laws currency date.

Note: July 1, 2010 has been named by proclamation as the day on which section 1 of the *Long-Term Care Homes Act, 2007* comes into force.

Last amendment: O. Reg. 89/10.

This Regulation is made in English only.

Debt and financial obligation limit

1. (1) The annual debt and financial obligation limit for municipalities shall be determined under this Regulation. O. Reg. 403/02, s. 1 (1).

(2) The Ministry shall annually determine the limit using the formula described in section 3 based on the financial information supplied to the Ministry by each municipality under the Act and under the *Municipal Affairs Act*. O. Reg. 403/02, s. 1 (2).

(3) The Ministry shall inform the treasurer of the municipality in writing of the limit. O. Reg. 403/02, s. 1 (3).

Determination as to whether OMB approval required

2. A municipality shall use the most recent limit provided to it by the Ministry to determine whether Ontario Municipal Board approval is required in respect of the following categories of debt or financial obligation:

1. Long-term debt assumed by a municipality for which repayment will be required beyond the term for which the council was elected.
2. Other financial commitments, liabilities and contractual obligations, for which payment may or will be required beyond the term for which the council was elected, including, without being limited to,
 - i. lease agreements,
 - ii. financial commitments to hospitals and universities. O. Reg. 403/02, s. 2.

Determination of limit

3. The Ministry shall determine the debt and financial obligation limit of a municipality as

follows:

1. Calculate the revenues for a past fiscal year, excluding, whether or not they are revenues, amounts received in the year,
 - i. as grants from the Government of Ontario or Canada or from another municipality,
 - ii. as proceeds from the sale of real property,
 - iii. as a contribution or transfer from a reserve fund or reserve,
 - iv. under agreement with the Government of Ontario, for the purpose of repaying the principal and interest of long-term debt or meeting financial obligations of the municipality,
 - v. from another municipality or a school board for the repayment of the principal and interest of long-term debt of the municipality borrowed for the exclusive purposes of the other municipality or school board,
 - vi. as revenues from electrical, telephone and gas service, and
 - vii. as revenues for the purpose of repaying the principal and interest of debt under the *Tile Drainage Act* or the *Shoreline Property Assistance Act*,
 - viii. Revoked: O. Reg. 294/09, s. 1 (3).
2. Multiply the amount obtained in paragraph 1 by 25 per cent.
3. Subtract from the amount obtained in paragraph 2 the total payments in the fiscal year related to the long-term debt of the municipality less,
 - i. the payments in that year for long-term debt or financial obligations for which the Government of Ontario has agreed to provide to the municipality the amounts required by the municipality to repay the principal and interest of the debt or to meet the financial obligations,
 - ii. payments in that year from another municipality or a school board for the repayment of the principal and interest of long-term debt of the municipality borrowed for the exclusive purposes of the other municipality or school board,
 - iii. the payments for electrical, telephone and gas service provided by the municipality for which revenues are received by the municipality in that year, and
 - iv. the payments for shoreline assistance and tile drainage in that year,
 - v. Revoked: O. Reg. 294/09, s. 1 (4).
4. Subtract from the amount obtained in paragraph 3,
 - i. payments made in the fiscal year in respect of the financial commitments, obligations and liabilities described in paragraph 2 of section 2, and
 - ii. for any fiscal year in a construction period during which amounts of principal, interest or both are not payable in respect of debenture debt for an undertaking authorized by the municipality for its purposes through a by-law under clause 408 (4) (d) of the Act, an amount equal to the estimated average annual amount

of principal and interest that will be payable by the municipality in respect of the debt during the period when those debt payments are to be actually made.

O. Reg. 403/02, s. 3; O. Reg. 294/09, s. 1.

Updated limit

4. (1) Before authorizing any specific work or class of work or any increase in expenditure for a previously authorized specific work or class of work that would require a long-term debt or financial obligation described in section 2, the council of the municipality shall have its treasurer calculate an updated limit using the most recent debt and financial obligation limit determined by the Ministry. O. Reg. 403/02, s. 4 (1).

(2) The treasurer shall update the most recent limit determined by the Ministry as follows:

1. Adjust the limit in respect of the estimated annual amount payable for any long-term debt or financial obligation described in section 2 assumed or discharged by the municipality since the last day of the past fiscal year for which the limit was calculated.
2. Subtract from the amount obtained in paragraph 1, the estimated annual amount payable in respect of any project approved by the Ontario Municipal Board or the council, as the case may be, to be financed by long-term debt or financial obligation described in section 2 but not as yet assumed unless council has, by resolution, indicated that it will not proceed with that project.
3. Subtract from the amount obtained in paragraph 1, for any fiscal year in a construction period during which amounts of principal, interest or both are not payable in respect of debenture debt for an undertaking authorized by the municipality for its purposes through a by-law under clause 408 (4) (d) of the Act, an amount equal to the estimated average annual amount of principal and interest that will be payable by the municipality in respect of the debt during the period when those debt payments are to be actually made.
4. Subtract from the amount obtained in paragraph 1 any amount recognized by the treasurer as annually payable or as payable in the year in respect of a financial obligation described in paragraph 2 of section 2.
5. Add to the amount obtained in paragraph 1 the estimated amount annually payable for any long-term debt or financial obligation described in section 2 in respect of the owner's share of the cost of a work undertaken as a local improvement under Ontario Regulation 586/06 (Local Improvement Charges — Priority Lien Status) made under the Act. O. Reg. 403/02, s. 4 (2); O. Reg. 294/09, s. 2 (1).

(3) The treasurer shall calculate the estimated annual amount payable by the municipality in respect of the work or class of work. O. Reg. 403/02, s. 4 (3).

(4) The treasurer shall not include in the update under subsection (2) or the calculation under subsection (3) any amounts payable by the municipality for the following categories of long-term debt or financial obligation:

1. Debt or financial obligation for which the Government of Ontario has agreed to pay to the municipality the amounts required by the municipality to repay the principal and interest of the debt or to meet the financial obligation.

2. Debt under the *Tile Drainage Act* or the *Shoreline Property Assistance Act*.
3. Debt or financial obligation in respect of electrical, telephone and gas service provided by the municipality for which revenues are received by the municipality.
4. Revoked: O. Reg. 294/09, s. 2 (2).

O. Reg. 403/02, s. 4 (4); O. Reg. 294/09, s. 2 (2).

(5) The treasurer is not required to include in the update under subsection (2) or the calculation under subsection (3) any amounts recognized by the treasurer as expenses in the current year that are, or are payable under, any of the following:

1. Arrangements to provide pensions.
2. Agreements with a municipality or local body under section 20 of the Act.
3. Agreements with a First Nation under section 21 of the Act.
4. Agreements with the Province of Ontario under section 22 of the Act.
5. Agreements under the *Police Services Act* respecting policing of the whole or any part of a municipality by the Ontario Provincial Police.
6. Agreements respecting matters of employment of officers and employees of the municipality or a local board of the municipality.
7. Agreements for sharing the cost of services of officers and employees of municipalities or local boards.
8. Agreements respecting homes under the *Homes for the Aged and Rest Homes Act*.

Note: On the day section 1 of the *Long-Term Care Homes Act, 2007* comes into force, paragraph 8 is revoked and the following substituted:

8. Agreements respecting long-term care homes under Part VIII of the *Long-Term Care Homes Act, 2007*.

See: O. Reg. 89/10, ss. 1, 2.

9. Agreements respecting bus franchises.
 10. Agreements for insurance and reciprocal contracts of indemnity or inter-insurance, including premium notes given for fire insurance.
 11. Any other agreement with any person for the provision of a service. O. Reg. 403/02, s. 4 (5); O. Reg. 294/09, s. 2 (3).
- (6) Subsection (5) does not apply to,
- (a) agreements to borrow money or sell debt prescribed under section 305 of the Act payable to the municipality;
 - (b) agreements to incur debt without borrowing money for the purpose of obtaining long-term financing of any capital work of the municipality, including lease agreements; or
 - (c) agreements for the purpose of minimizing costs or financial risk associated with the incurring of debt. O. Reg. 403/02, s. 4 (6); O. Reg. 294/09, s. 2 (4).
- (7) The council of any municipality that borrows money or issues debentures for the

exclusive purposes of one or more other municipalities or school boards is not required to have its treasurer update its debt and financial obligation limit in respect of the borrowing or issuance. O. Reg. 403/02, s. 4 (7).

(8) If a council does not require the treasurer to calculate an updated limit under subsection (7), the treasurer shall not include any amount in respect of the borrowing, issuance or authorization in an update under subsection (2) or a calculation under subsection (3). O. Reg. 403/02, s. 4 (8).

(9) If the amount calculated under subsection (3) exceeds the amount updated under subsection (2), the council must obtain the approval of the Ontario Municipal Board before authorizing the work or class of work. O. Reg. 403/02, s. 4 (9).

Transitional limit

5. (1) The Ministry shall calculate a transitional debt and financial obligation limit for a municipality in respect of any fiscal year in which the following conditions are met:

1. The municipality has been erected, incorporated or created by statute or has had a boundary alteration within the past five years.
2. The financial information necessary for the Ministry to determine a debt and financial obligation for the municipality under section 3 is not available. O. Reg. 403/02, s. 5 (1).

(2) Despite sections 1 and 3, the Ministry may determine a transitional debt limit by estimating the revenues for the year and by using relevant financial information obtained from any municipality or from any fiscal year. O. Reg. 403/02, s. 5 (2); O. Reg. 294/09, s. 3.

(3) Despite section 4, the treasurer may update a transitional debt limit using relevant financial information from any fiscal year. O. Reg. 403/02, s. 5 (3).

6. Omitted (revokes other Regulations). O. Reg. 403/02, s. 6.

7. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 403/02, s. 7.

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June 7, 2010

REPORT TO FINANCE AND ADMINISTRATION COMMITTEE – JUNE 15, 2010

2010-100-06

JOINT COMPLIANCE AUDIT COMMITTEE

**SANDRA M. SEALE
CITY CLERK**

RECOMMENDED

THAT the Clerk be directed to continue to work with neighbouring Municipal Clerks to establish a Joint Compliance Audit Committee as per the attached Terms of Reference, followed by recommendation for appointments.

PURPOSE

Recent changes to the *Municipal Elections Act, 1996* have made it mandatory for municipalities to establish a Compliance Audit Committee to deal with complaints regarding election campaign financing. An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of the Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances.

ANALYSIS/BACKGROUND

Clerks within the United Counties of Leeds & Grenville continue to work together on a wide variety of issues, including election matters. Due to the complexity and nature of the issues, many municipalities across Ontario are working together in establishing and appointing a Compliance Audit Committee. It is recommended that municipalities in the United Counties of Leeds & Grenville do the same.

The Terms of Reference include procedures with regard to recruitment, appointment and operation. The L&G Clerks support a joint approach to pool resources and to ensure qualified appointees. Ideal candidates will be familiar with legal, municipal, election and finance matters, specifically the requirements of the *Municipal Elections Act, 1996* with regard to election financing. Each municipality will be required to approve separately the Terms of Reference and appointments.

Section 81 of the *Municipal Elections Act, 1996* sets out the necessary operating provisions related to the Compliance Audit Committee. Here is a brief summary:

- Municipalities must appoint a Committee by October 1st of an election year and the appointment is for the term of the new Council.
- The membership of the Committee is between three and seven members; furthermore, employees/officers, Councillors and candidates cannot be appointed.

- The Clerk shall act as the resource person for the Committee and establish the necessary administrative policies and practices for its proper functioning.
- An application for a compliance audit must be made in writing, within 90 days after the filing deadline, to the Clerk outlining the reasons for the request.
- Within 10 days, the Clerk shall forward the application to the Compliance Audit Committee with a copy to Council for information purposes only.
- Within 30 days of receipt, the Committee shall consider the application and determine if it is rejected or granted.
- If granted, the Committee shall appoint a licensed Auditor, who must promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate.
- Within 10 days of receipt, the Clerk must forward the report to the Compliance Audit Committee, which must consider it within 30 days.
- If the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, the Committee must commence a legal proceeding against the candidate for the apparent contravention.
- If the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances, the Committee shall make a finding as to whether there were reasonable grounds for the application.

FINANCIAL CONSIDERATIONS

According to the Act, municipalities are responsible for the costs associated with the Compliance Audit Committee. In addition, they are also responsible for audit costs; however, Council is entitled to recover the auditor's costs from the applicant if the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application. In the event of an application, the affected municipality would be responsible for the associated costs and the Clerk of that municipality would serve as Committee Secretary in dealing with the specific application.

It is anticipated that appointees will be reimbursed for expenses associated with travel to be paid by the member municipality requiring the services of the Committee in accordance with their current policy.


S. Seale
City Clerk


B. Casselman
City Manager

Joint Leeds & Grenville Election Compliance Audit Committee

	Terms of Reference
1	<p><u>Name</u></p> <p>The name of the Committee is the "Joint Leeds & Grenville Election Compliance Audit Committee" consisting of the following municipalities:</p> <ul style="list-style-type: none"> Township of Athens Township of Augusta City of Brockville Township of Edwardsburgh/Cardinal Township of Elizabethtown-Kitley Township of Front of Yonge Town of Gananoque Township of Leeds and the Thousand Islands Village of Merrickville-Wolford Municipality of North Grenville Town of Prescott Township of Rideau Lakes Village of Westport
2	<p><u>Duration</u></p> <p>The term of office is from December 1, 2010 to November 30, 2014 to deal with applications from the 2010 election and any by-elections during Council's term.</p>
3	<p><u>Mandate</u></p> <p>The powers and functions of the Committee are set out in Sections 81 and 81.1 of the <i>Municipal Elections Act, 1996</i> (Appendix "A"). The Committee will perform the functions relating to the compliance audit application process as outlined in the Act. These functions include:</p> <ul style="list-style-type: none"> a. within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected; b. appoint a licensed auditor, if the application is granted; c. receive the auditor's report; d. within 30 days receipt of the auditor's report, consider the report; e. if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, commence legal proceedings against the candidate for the apparent contravention; f. if the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances and the Committee finds that there were no reasonable grounds for the application, Council may recover the auditors costs from the applicant.

4	<p><u>Membership</u></p> <p>The Committee will be composed of three (3) voting members, with three (3) alternate members that would assume all the rights and privileges of a voting member if called upon. Alternate members will be called upon to replace a voting member when required.</p> <p>Membership will be drawn from the following groups:</p> <ul style="list-style-type: none"> a. accounting and audit - accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates; b. legal; c. professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and/or d. other individuals with knowledge of the campaign financing rules of the <i>Municipal Elections Act, 1996</i>. <p>Municipal employees, members of Council and any candidates in the municipal election or in any by-election during the term of Council for any member municipality are ineligible to be appointed as a member of the Committee pursuant to subsection 81.1(2) of the of the <i>Municipal Elections Act, 1996</i>.</p> <p>Members will be required to take Accessible Customer Service training as a condition of appointment.</p>
5	<p><u>Membership Selection</u></p> <p>The terms of reference and application form will be posted on the municipal websites of the member municipalities. Staff will also contact and solicit those individuals as set out under section 4 of the Terms of Reference. In addition, advertisements will be placed in a local paper.</p> <p>All applicants will be required to complete an application form outlining their qualifications and experience. Leeds & Grenville Clerks may interview applicants who meet the selection criteria and prepare a short list of three voting members and three alternate members. Recommended candidates will be submitted to the Council of each member municipality for consideration.</p> <p>The selection process will be based upon clearly understood and equitable criteria. Members will be selected on the basis of the following:</p> <ul style="list-style-type: none"> a. demonstrated knowledge and understanding of municipal election campaign financing rules; b. proven analytical and decision-making skills;

	<p>c. experience working on a committee, task force or similar setting;</p> <p>d. availability and willingness to attend meetings; and</p> <p>e. excellent oral and written communication skills.</p> <p>Any members appointed must also agree in writing they will not be a candidate in the Municipal election or in any by-election during the term of Council for any member municipality. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p>
6	<p><u>Conflict of Interest</u></p> <p>The principles of the <i>Municipal Conflict of Interest Act</i>, apply to this Committee. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p> <p>To avoid a conflict, any person appointed to the Committee must agree in writing not to prepare or audit the election financial statements of any candidate for office for any of the member municipalities in the municipal election. Failure to adhere to this requirement will result in the individual being removed from the Committee.</p>
7	<p><u>Chair</u></p> <p>The Committee will select a Chair from amongst its members at its first meeting upon receipt of each compliance audit application.</p> <p>The Chair is the liaison between the members and the Secretary of the Committee on matters of policy and process.</p> <p>The Chair shall enforce the observance of order and decorum among the Committee members and the public at all meetings.</p> <p>When the Chair is absent, the Committee may appoint another member as Acting Chair. While presiding, the Acting Chair shall have all the powers of the Chair.</p>
8	<p><u>Staffing and Funding</u></p> <p>The Clerk or designate from the applicable member municipality shall act as Secretary to the Committee.</p> <p>The member municipality requiring the services of the Committee shall be responsible for all associated expenses.</p>
9	<p><u>Meetings</u></p> <p>Meetings of the Committee will be conducted in accordance with the open meeting provisions of the <i>Municipal Act, 2001</i>.</p>

An alternate member shall be used in the following circumstances:

- a committee member is an eligible elector in the municipality requiring the audit.
- a committee member has a personal or business relationship with the subject of the audit.
- a committee member is unavailable for the duration of the audit.

The Clerk or designate of the member municipality will confirm the committee membership.

Timing of Meetings

Upon receipt of each application, the first meeting will be called by the Clerk or designate of the member municipality. The date and time of the meeting will be determined by the Clerk or designate and communicated directly to the Committee members. Subsequent meetings will be held at the call of the Chair in consultation with the Clerk or designate.

Committee activity shall be determined primarily by the number and complexity of applications for compliance audits that may be received. The frequency and duration of meetings will be determined by the Committee in consultation with the Clerk or designate.

Meeting Location

The Committee shall meet at the location determined by the member municipality.

Meeting Notices, Agendas & Minutes

The agenda shall constitute notice. The Clerk or designate of the member municipality requiring the services of the Committee shall cause notice of the meetings to be provided to members of the Committee a minimum of two (2) business days prior to the date of each meeting, not including weekends or holidays. The agendas and minutes of meetings shall be posted on the member municipality's website.

Minutes of each meeting shall outline the general deliberations and specific actions and recommendations that result.

Agenda Format

1. Call to Order
2. Disclosure of Pecuniary Interest and General Nature Thereof
3. Consideration of Compliance Audit Application or Auditor's Report
4. Adjournment

	<p><i>Quorum</i></p> <p>Quorum for meetings shall consist of a majority of the members of the Committee.</p> <p>If no quorum is present thirty (30) minutes after the time appointed for a meeting, the Clerk or designate shall record the names of the members present and the meeting shall stand adjourned until the date of the next meeting.</p> <p><i>Meeting Attendance</i></p> <p>Any member of the Committee, who misses three (3) consecutive meetings, without being excused by the Committee, may be removed from the Committee. The Committee must make recommendations, by a report to Council for the removal of any member.</p> <p><i>Motions & Voting</i></p> <p>A motion shall only need to be formally moved before the Chair can put the question or a motion can be recorded in the minutes.</p> <p>Every Member present shall be deemed to vote against the motion if they decline or abstain from voting, unless disqualified from voting by reason of a declared pecuniary interest.</p> <p>In the case of a tie vote, the motion shall be considered to have been lost.</p> <p>The manner of determining the vote on a motion shall be by show of hands.</p> <p>The Chair shall announce the result of every vote.</p>
10	<p><u>Administrative Practices and Procedures</u></p> <p>The Terms of Reference constitute the Administrative Practices and Procedures of the Committee. Any responsibilities not clearly identified within these Terms of Reference shall be in accordance with Section 81 of the <i>Municipal Elections Act, 1996</i>.</p> <p>The Clerk or designate at any time has the right to develop additional administrative practices and procedures.</p>

APPENDIX "A"

Municipal Elections Act, 1996 S.O. 1996, c. 32 (for reference only)

Compliance Audit Application & Committee

Compliance audit Application

81. (1) An elector who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of this Act relating to election campaign finances may apply for a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Requirements

(2) An application for a compliance audit shall be made to the clerk of the municipality or the secretary of the local board for which the candidate was nominated for office; and it shall be in writing and shall set out the reasons for the elector's belief. 2009, c. 33, Sched. 21, s. 8 (44).

Deadline

- (3)** The application must be made within 90 days after the latest of,
- (a) the filing date under section 78;
 - (b) the candidate's supplementary filing date, if any, under section 78;
 - (c) the filing date for the final financial statement under section 79.1; or
 - (d) the date on which the candidate's extension, if any, under subsection 80 (4) expires. 2009, c. 33, Sched. 21, s. 8 (44).

Application to be forwarded to committee

(4) Within 10 days after receiving the application, the clerk of the municipality or the secretary of the local board, as the case may be, shall forward the application to the compliance audit committee established under section 81.1 and provide a copy of the application to the council or local board. 2009, c. 33, Sched. 21, s. 8 (44).

Decision

(5) Within 30 days after receiving the application, the committee shall consider the application and decide whether it should be granted or rejected. 2009, c. 33, Sched. 21, s. 8 (44).

Appeal

(6) The decision of the committee may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the committee could have made. 2009, c. 33, Sched. 21, s. 8 (44).

Appointment of auditor

(7) If the committee decides under subsection (5) to grant the application, it shall appoint an auditor to conduct a compliance audit of the candidate's election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Same

(8) Only auditors licensed under the *Public Accounting Act, 2004* or prescribed persons are eligible to be appointed under subsection (7). 2009, c. 33, Sched. 21, s. 8 (44).

Duty of auditor

(9) The auditor shall promptly conduct an audit of the candidate's election campaign finances to determine whether he or she has complied with the provisions of this Act relating to election campaign finances and shall prepare a report outlining any apparent contravention by the candidate. 2009, c. 33, Sched. 21, s. 8 (44).

Who receives report

(10) The auditor shall submit the report to,

- (a) the candidate;
- (b) the council or local board, as the case may be;
- (c) the clerk with whom the candidate filed his or her nomination;
- (d) the secretary of the local board, if applicable; and
- (e) the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Report to be forwarded to committee

(11) Within 10 days after receiving the report, the clerk of the municipality or the secretary of the local board shall forward the report to the compliance audit committee. 2009, c. 33, Sched. 21, s. 8 (44).

Powers of auditor

(12) For the purpose of the audit, the auditor,

- (a) is entitled to have access, at all reasonable hours, to all relevant books, papers, documents or things of the candidate and of the municipality or local board; and
- (b) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the audit as if it were an inquiry under that Act. 2009, c. 33, Sched. 21, s. 8 (44).

Note: On a day to be named by proclamation of the Lieutenant Governor, clause (b) is repealed and the following substituted:

(b) has the powers set out in section 34 of the *Public Inquiries Act, 2009* and section 34 applies to the audit.

See: 2009, c. 33, Sched. 21, ss. 8 (45), 13 (2).

Costs

(13) The municipality or local board shall pay the auditor's costs of performing the audit. 2009, c. 33, Sched. 21, s. 8 (44).

Power of committee

- (14) The committee shall consider the report within 30 days after receiving it and may,
- (a) if the report concludes that the candidate appears to have contravened a provision of this Act relating to election campaign finances, commence a legal proceeding against the candidate for the apparent contravention;
 - (b) if the report concludes that the candidate does not appear to have contravened a provision of this Act relating to election campaign finances, make a finding as to whether there were reasonable grounds for the application. 2009, c. 33, Sched. 21, s. 8 (44).

Recovery of costs

(15) If the report indicates that there was no apparent contravention and the committee finds that there were no reasonable grounds for the application, the council or local board is entitled to recover the auditor's costs from the applicant. 2009, c. 33, Sched. 21, s. 8 (44).

Immunity

(16) No action or other proceeding for damages shall be instituted against an auditor appointed under subsection (7) for any act done in good faith in the execution or intended execution of the audit or for any alleged neglect or default in its execution in good faith. 2009, c. 33, Sched. 21, s. 8 (44).

Saving provision

(17) This section does not prevent a person from laying a charge or taking any other legal action, at any time, with respect to an alleged contravention of a provision of this Act relating to election campaign finances. 2009, c. 33, Sched. 21, s. 8 (44).

Compliance audit committee

81.1 (1) A council or local board shall, before October 1 of an election year, establish a committee for the purposes of section 81. 2009, c. 33, Sched. 21, s. 8 (44).

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; or
 - (c) any persons who are candidates in the election for which the committee is established. 2009, c. 33, Sched. 21, s. 8 (44).

Term of office

(3) 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. 2009, c. 33, Sched. 21, s. 8 (44).

Role of clerk or secretary

(4) 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. 2009, c. 33, Sched. 21, s. 8 (44).

Costs

(5) The council or local board, as the case may be, shall pay all costs in relation to the committee's operation and activities. 2009, c. 33, Sched. 21, s. 8 (44).

FREQUENTLY ASKED QUESTIONS

1. General Questions about the Compliance Audit Committee

Q. What is a Compliance Audit Committee?

- A.** Pursuant to Section 81.1 of the *Municipal Elections Act, 1996*, Council must establish a Compliance Audit Committee. The Committee will receive and make decisions on applications for compliance audits of candidates' municipal election campaign finances and any by-elections during Council's term pursuant to the Act.

Q. What are the functions of the Compliance Audit Committee?

- A.** The powers and functions of the Committee are set out in sections 81 and 81.1 of the *Municipal Elections Act, 1996*. The Committee will perform the functions relating to the compliance audit application process as outlined in the Act. These functions include:
- a. within 30 days receipt of a compliance audit application by an elector, consider the application and decide whether it should be granted or rejected;
 - b. appoint a licensed auditor, if the application is granted;
 - c. receive the auditor's report;
 - d. within 30 days receipt of the auditor's report, consider the report;
 - e. if the report concludes that the candidate appears to have contravened a provision of the Act relating to election campaign finances, commence legal proceedings against the candidate for the apparent contravention;
 - f. if the report concludes that the candidate does not appear to have contravened a provision of the Act relating to election campaign finances and the Committee finds that there were no reasonable grounds for the application, Council may recover the audit costs from the applicant.

Q. What is the composition of the Compliance Audit Committee?

- A.** The Committee will be composed of three (3) voting members, with three (3) alternate members that would assume all the rights and privileges of a voting member if called upon. Alternate members will be called upon to replace a voting member when required.

Membership will be drawn from the following groups:

- a. accounting and audit - accountants or auditors with experience in preparing or auditing the financial statements of municipal candidates;
- b. legal;
- c. professionals who in the course of their duties are required to adhere to codes or standards of their profession which may be enforced by disciplinary tribunals; and/or
- d. other individuals with knowledge of the campaign financing rules of the *Municipal Elections Act, 1996*.

Q. Who is ineligible to apply to be a member of the Compliance Audit Committee?

- A.** Municipal employees, members of Council and any candidates in the municipal election or in any by-election during the term of Council for any member municipality are ineligible to be appointed as a member of the Committee pursuant to subsection 81.1(2) of the of the *Municipal Elections Act*, 1996.

Q. When does the Committee's term of office begin and end?

- A.** The term of office is from December 1, 2010 to November 30, 2014 to deal with applications from the 2010 election and any by-elections during Council's term.

Q. What is the time commitment required of a Compliance Audit Committee member?

- A.** This depends on the number of applications received and the complexity of the issues raised in the applications.

2. General Questions about the Compliance Audit Process

Q. What is a Compliance Audit?

- A.** An elector, who is entitled to vote in an election and believes on reasonable grounds that a candidate has contravened a provision of the *Municipal Elections Act*, 1996 relating to election campaign finances, may apply for a compliance audit of the candidate's campaign finances.

An application for a compliance audit shall be made to the Clerk of a municipality. This application shall be in writing and shall set out the reasons for the elector's belief within 90 days after the candidate's financial filing date.

Q. Where does an elector send their application?

- A.** To request a compliance audit of a municipal council candidate (Mayor, Deputy Mayor or Councillor), an elector can send their application to 1 King Street West, Brockville, ON K6V 7A5.

Q. How long will it take before the application is heard?

- A.** Within 30 days after receiving the application, the Compliance Audit Committee will consider the application and decide whether to grant it or reject it.

Q. What happens if the Committee grants the application?

- A.** If the Committee grants the application, they will appoint an auditor to promptly start the audit of the candidate's election campaign finances to determine if the candidate complied with the provisions of the *Municipal Elections Act*, 1996.

Q. Can Committee decisions be appealed?

- A.** Yes. The decision of the Committee may be appealed to the Ontario Court of Justice within 15 days after the decision is made and the court may make any decision the Committee could have made.

Q. What happens once the auditor completes the audit?

- A.** Once the auditor has completed the audit, the auditor will provide a report to the Committee, the Clerk, the candidate and the applicant.

The Committee will consider the report within 30 days of receiving it and determine whether legal proceedings should be commenced against the candidate.

Q. Who pays for the auditor?

- A.** The municipality pays for the auditor's costs, however, if the report indicates that there was no apparent contravention and the Committee finds that there were no reasonable grounds for the application, the Council is entitled to recover the auditor's costs from the applicant.