



The Municipal Corporation of the
Town of Fort Erie

**COMPLIANCE AUDIT COMMITTEE
MEETING**

TUESDAY JULY 12, 2011

COUNCIL CHAMBERS

MINUTES

1) CALL TO ORDER

The meeting was called to order at 3:10 p.m.

2) ROLL CALL

PRESENT: Allan Andrews, Committee Chair, David Barrett, Committee Member and John K. Bice, Committee Member.

ALSO PRESENT:

C.J. Kett, Town Clerk

S. Ellis, Legal Counsel, Compliance Audit Committee (Fort Erie)

C. Watson, Legislative Assistant

MEDIA PRESENT: Kris Dube, The Times; Richard Hutton, The Post; and John Robbins, Bullet Media.

MEMBERS OF THE PUBLIC PRESENT: 38

3) SELECTION OF CHAIR

Resolution No. 1

Moved by: David Barrett

THAT:Allan Andrews is hereby selected as the Chair for the Compliance Audit Committee Meeting (Fort Erie). (CARRIED)

4) DISCLOSURE OF PECUNIARY INTEREST AND GENERAL NATURE

NIL

5) **ADOPTION OF MINUTES AND PROCEDURES**

- (a) Compliance Audit Committee Minutes (Fort Erie) – June 6, 2011

Resolution No. 2
Moved by: John K. Bice

THAT:The Niagara Compliance Audit Committee Minutes dated June 6, 2011 be adopted as printed. (CARRIED)

- (b) Adoption of Niagara Compliance Audit Committee Procedures

Resolution No. 3
Moved by: John K. Bice

THAT:The Compliance Audit Committee hereby adopts and approves the Niagara Compliance Audit Committee Procedures attached hereto as Appendix "1" retroactive to May 17, 2011. (CARRIED)

6) **OPENING STATEMENT BY CHAIR**

Pursuant to the Niagara Compliance Audit Committee Procedures, Chair Andrews informed the parties of the agenda, process and procedures for the meeting by reading an opening statement.

7) **APPLICATION FOR COMPLIANCE AUDIT – APPLICATION BY RICHARD L. BERRY FOR CANDIDATE TIM WHITFIELD, WARD 4**

1. Attachments: (a) Application
(b) Candidate's Financial Statement
(c) Written Submissions (NIL)

2. Introduction and Recording of Applicant and Candidate

Re: Candidate and Applicant (or agents) to provide names and mailing addresses to the Clerk.

Chair Andrews requested the Candidate and Applicant to come forward and state their names and addresses for the Clerk:

Tim Whitfield, Candidate, 3131 Young Avenue, Ridgeway.
Richard L. Berry, Applicant, 2491 Dominion Road, Ridgeway.

3. Presentation by Applicant (or agent)

Mr. Berry stated the main reason for his application related to election signs.

At 3:21 p.m. the Applicant requested a break in order to obtain the correct papers. At 3:29 p.m. Mr. Berry had not returned to the Council Chambers. The Chair apologized to the Applicant and explained the Committee had to move forward. The Chair proceeded to the Application by Michael Cloutier for Candidate Robert J. Steckley, Ward 3.

**8) APPLICATION FOR COMPLIANCE AUDIT – APPLICATION BY
MICHAEL CLOUTIER FOR CANDIDATE ROBERT J. STECKLEY, WARD 3**

1. Attachments: (a) Application
(b) Candidate's Financial Statement
(c) Written Submissions (NIL)

2. Introduction and Recording of Applicant and Candidate

Re: Candidate and Applicant (or agents) to provide names and mailing addresses to the Clerk.

Chair Barrett requested the Candidate and Applicant to come forward and state their names and addresses for the Clerk:

Robert J. Steckley, Candidate, 441 Parkdale Avenue, Fort Erie.
Michael Cloutier, Applicant, 655 Daytona Drive, Fort Erie.

3. Presentation by Applicant (or agent)

Mr. Cloutier stated that he stands by the contents of his written application, a copy of which is available in the Clerk's Office, which essentially stated:

"Steckley's campaign received a \$600.00 donation from a corporation operating as Strategic Assessment and Rehabilitation (STAR) of which Noyes is president and cheque signatory. Steckley contributed \$800.00 to his own campaign. His spouse contributed \$999.99. The campaign recorded a surplus of \$136.04 which was refunded back to the candidate."

"Steckley donated \$300.00 to the Noyes campaign and so did Debbie Steckley, his wife, which amounts to a total of \$600.00 from the Steckley household which is exactly the amount contributed by STAR to his own campaign."

There were no questions from the Committee directed to Mr. Cloutier.

4. Presentation by Candidate (or agent)

Mr. Steckley addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He was present because the applicant Mr. Cloutier had accused him of knowingly participating in a violation of the *Municipal Elections Act* by candidate Ann-Marie Noyes. He stated that Mr. Cloutier brought forward a request against him since he has held a grudge against him for reasons that he wouldn't go into. For the past five years he has used his online newspaper to harass him, accuse him and attempt to publicly embarrass him on a weekly basis. He believes this application is another attempt by Mr. Cloutier to publicly discredit him.

In Mr. Cloutier's application he states Mr. Steckley's spouse contributed \$999.99 to his campaign which is incorrect. He referred to the line on his financial return to list contributions from spouse which is blank since he did not receive any contributions from his spouse. The \$999.99 represents all other contributions which are the donations he received during his campaign and includes a \$600.00 contribution from Strategic Treatment Assessment and Rehabilitation (STAR), a corporation owned by Ms. Noyes, candidate for Mayor in the Municipal election. The *Municipal Elections Act* states a corporation that carries on business in Ontario may contribute to a candidate which STAR is and therefore, could legally contribute to his campaign.

Mr. Steckley advised he donated \$300.00 to Ms. Noyes campaign as did his wife Debbie. The *Municipal Elections Act* states an individual who is normally a resident of Ontario may contribute to a candidate's campaign. He and his wife are residents in Ontario and therefore, could legally donate to Ms. Noyes campaign. Mr. Cloutier's application says these transactions suggest Mr. Steckley was party to a violation of the *Act* by the Noyes campaign in allowing STAR to launder contributions to the Noyes campaign through his campaign. Mr. Steckley explained Ms. Noyes voluntarily gave the contribution to his campaign from her corporation STAR even though he was not actively soliciting donations and was prepared to fund his campaign himself. After a few weeks of going door to door in his ward he knew the mayor's race would be a close race so he decided to make a financial donation to Ms. Noyes' campaign. He had already made a donation of goods to her campaign and since he had been prepared to fund his own campaign without donations, he returned the favour of Ms. Noyes donation to him. He didn't contribute the whole \$600 himself because he didn't want to go over the contribution limit with the financial contribution of the goods he donated, so he and his wife both donated \$300.00 to Ms. Noyes' campaign. The thought of laundering money never entered his mind because that was not what he was doing.

In conclusion, Mr. Steckley reiterated the donation from STAR to his campaign and the donations from he and his wife to Ms. Noyes' campaign were legal contributions according to the *Municipal Elections Act*. He did not believe there was any evidence that he contravened the *Act* and therefore, he did not believe there were any grounds for a compliance audit.

Following Mr. Steckley's presentation, a question and answer period followed with the Committee.

The Chair permitted the Applicant to further address the Committee.

Mr. Cloutier stated in the 2006 Municipal election Mr. Steckley received an illegal contribution of \$750.00 from the Fort Erie Ratepayer's Association. The Chair ruled the rebuttal out of order.

5. Committee Consideration of Application and Decision

Re: Committee to determine to grant or reject Application

Resolution No. 4
Moved by: David Barrett

THAT:Having reviewed the written materials filed by the Applicant and the Candidate, and having heard the oral submissions by both parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby rejects the compliance audit application filed by Michael Cloutier for an audit of the election campaign finances of Robert J. Steckley, candidate in the October 25, 2010 municipal election since the Committee is not satisfied that reasonable grounds have been demonstrated that the Candidate may have contravened the provisions of the said *Act* relating to election campaign finances.
(CARRIED)

9) **APPLICATION FOR COMPLIANCE AUDIT – APPLICATION BY RICHARD L. BERRY FOR CANDIDATE TIM WHITFIELD, WARD 4..continued**

See Section 7 for beginning of Presentation by Applicant.

1. Presentation by Applicant (or agent)..continued

Mr. Berry addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He stated that Mr. Whitfield has a variety of discrepancies in his financial statement. He stated on Page 2 of 8 in the financial statement under expenses Mr. Whitfield failed to claim bank charges. He referred to Section 69(1) of the *Municipal Elections Act* respecting duties of a candidate. He concluded that due to the absence of bank charges it appeared Mr. Whitfield did not open a campaign account and therefore contravened the *Act*.

Mr. Berry referred to Page 2 of 8 wherein Mr. Whitfield did not claim expenses for his brochures. Mr. Berry submitted to the Committee a copy of the brochure Mr. Whitfield distributed during his campaign. He added there was a second brochure that Mr. Whitfield circulated which was also an insert in the local newspaper however, he did not have a copy of that brochure. He reiterated Section 69(1) of the *Act* that states a candidate shall ensure receipts and records are kept of every expense.

Mr. Berry explained another discrepancy in Mr. Whitfield's financial statement on Page 7 of 8, Schedule 3 wherein Mr. Whitfield claimed he brought in 200 signs from his previous campaign valued at \$1,400. On Schedule 4 of his financial statement Mr. Whitfield claimed he recovered the exact amount of signs and put them into his inventory. It appeared this was not an accurate count because Mr. Berry brought with him 4 signs from Mr. Whitfield's campaign. He suggested that perhaps Mr. Whitfield failed to collect other signs in his ward. He asked the Compliance Committee to request Mr. Whitfield to produce all signs in his inventory. On Page 2 of 8 Mr. Whitfield claimed a \$135.60 expense for signs which he believed were large signs Mr. Whitfield purchased near the end of the campaign period.

In closing, Mr. Berry stated that based on the information Mr. Whitfield filed in his financial statement it appeared he contravened the *Municipal Elections Act* by failing to open a campaign bank account, failing to submit all of his financial expenses and possibly filing inaccurate information regarding his campaign inventory.

There were no questions from the Committee directed to Mr. Berry.

2. Presentation by Candidate (or agent)

Mr. Whitfield addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He questioned when is enough, enough. He stated unfortunately, changes to the *Municipal Elections Act*, specifically Section 81 dealing with compliance, have had a positive and negative impact on the community.

In his opinion, Mr. Whitfield stated the intent of the legislation and the Committee was to examine legitimate instances of wrong doing. Mr. Whitfield demonstrated that he did open a bank account and was assessed bank charges. However, when he initially spoke to Mr. Cooper at the bank about opening the campaign account, it was to be surcharge free. This was confirmed in a letter by Mr. Cooper which stated the bank erred. When he filed his financial declaration, he did not add bank charges because he understood there would be none.

Mr. Whitfield referred to the brochure that Mr. Berry had in his possession. He explained there were several versions of the brochure, some in colour, some black and white, some on glossy paper and some on plain paper. He explained he owns an I MAC computer with a full ADOBE suite as well as several colour and black laser printers. The paper he used, had in some instances, been in his possession for four years when he and his wife helped a friend close her printing business in Ridgeway. At the time, several packages of paper were being thrown into a dumpster destined for the landfill and he asked his friend if he could have some of the paper and was told to take what he wanted. He retrieved approximately 20,000 sheets of different types of paper which was used for the production of his brochures. He suggested the next question would be did this paper have any value and if so, what? It was his opinion the value was negligible at best. He questioned if we try to assess a value to this paper, what would be next? He stated the last box of plain paper he purchased for his business was \$24.00 for 5,000 sheets, approximately 4 tenths of one cent per sheet. Since the paper he used for the brochures was destined for the landfill, he indicated it had zero value but at an arbitrary figure of \$5.00, the cost per sheet becomes 1 tenth of one cent. He would have had to print 1,000 sheets to equal \$1.00 and he assured the Committee he did not print that amount.

In closing, Mr. Whitfield stated he printed approximately 300 brochures with a value of somewhere between \$0.00 and \$0.30. He read the *Act* and was confident he did not violate any section. He respectfully requested the Committee to dismiss Mr. Berry's application as frivolous at best and having no merit.

Following Mr. Whitfield's presentation, a question and answer period followed with the Committee. Mr. Barrett requested legal advice on the basis that if things that are taken into inventory from a previous election, that is understandable, but if someone has a supply of paper that was taken or donated, he questioned why that would have to be declared. Mr. Ellis responded explaining the legal maxim "de minimis non curat lex." Translated, it means "the law is not concerned with trifles."

The Applicant attempted to speak again about the signs after the motion to reject was put on the floor. The Chair prevented the Applicant from speaking any further since there was a motion on the floor.

3. Committee Consideration of Application and Decision

Re: Committee to determine to grant or reject Application

Resolution No. 5
Moved by: David Barrett

THAT: Having reviewed the written materials filed by the Applicant and the Candidate, and having heard the oral submissions by both parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby rejects the compliance audit application filed by Richard L. Berry for an audit of the election campaign finances of Tim Whitfield, candidate in the October 25, 2010 municipal election since the Committee is not satisfied that reasonable grounds have been demonstrated that the Candidate may have contravened the provisions of the said *Act* relating to election campaign finances. (CARRIED)

10) APPLICATION FOR COMPLIANCE AUDIT – APPLICATION BY RICHARD L. BERRY FOR CANDIDATE STEPHEN PASSERO, WARD 1

1. Attachments: (a) Application
(b) Candidate's Financial Statement
(c) Written Submissions (NIL)

2. Introduction and Recording of Applicant and Candidate

Re: Candidate and Applicant (or agents) to provide names and mailing addresses to the Clerk.

Chair Andrews requested the Candidate and Applicant to come forward and state their names and addresses for the Clerk:

Stephen Passero, Candidate, 335 Brock Street, Fort Erie.
Richard L. Berry, Applicant, 2491 Dominion Road, Ridgeway.

3. Presentation by Applicant (or agent)

Mr. Berry addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He explained Mr. Passero had a campaign surplus of \$436.00. He referred to Section 79(6) of the *Municipal Elections Act* that explains how a refund may be paid. He added the Election Guide provides a simpler interpretation that states "if a campaign ends in a surplus, a candidate may withdraw from the campaign surplus the value of the candidate's contribution." When

reviewing Mr. Passero's financial statement Mr. Berry stated it shows he had a total campaign income of \$2,538.00 from which there was an in-kind donation of \$540.00 for the printing of his brochures and \$948.00 for sign inventory from his previous campaign which left Mr. Passero with a total cash income of \$1,050.00. Mr. Passero's actual cash expenses totaled \$613.50 leaving a surplus of \$436.50. On Page 2 of 8, Box C shows Mr. Passero contributed \$100.00 to his own campaign. As stated earlier, the *Act* would allow Mr. Passero to withdraw the value of his contribution which was \$100.00. On Page 1 of 8, Box B, Line 8 it shows Mr. Passero refunded himself the total amount of the surplus of \$436.50. Mr. Berry stated it appeared to be a contravention of the *Act*. On Line 8, Box B Mr. Passero had in brackets the word "value". Mr. Berry questioned what the value could be since Mr. Passero did not contribute anything of physical value. The only physical value in his statement were his brochures which were donated by Mr. Shaw and his campaign signs which were inventory from his previous campaign.

In closing, Mr. Berry stated he did not believe Mr. Passero was allowed to withdraw from his surplus the value of these items. The *Act* states that if a person knowingly contravenes the *Act* he/she is subject to severe penalties. He would like it noted that Mr. Passero must have known he was entitled to be refunded since he did refund himself \$436.50. He believes Mr. Passero knowingly contravened the *Act* and therefore, should be subject to a full audit of his financial statement and be held accountable for his actions.

There were no questions from the Committee directed to Mr. Berry.

4. Presentation by Candidate (or agent)

Mr. Passero addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He stated when he filled out his forms everything appeared to be in order. He thought the surplus amount shown was due to inventory carried forward and that was the reason the word "value" was hand written next to the surplus amount. That was his mistake. It wasn't until after he received notice of the compliance audit that he thoroughly reviewed the filing and recognized the inventory amount carried forward listed as a contribution cancelled itself out as it was also listed as an expense. In addition, it wasn't until two weeks ago when he received an email advising him what the hosting charges would be for his campaign website for the upcoming year that he realized he had completely forgotten about his campaign website. He commenced construction of a campaign website fairly late in the campaign which was completed about two weeks before the election. He received the invoice via email on January 3, 2011. The deadline for the campaign expenses was December 31, 2010. He didn't have enough left over in donations to pay the full amount, only \$436.50 and he couldn't come up with the additional balance of \$415.00 so he filed it in an inbox folder to be dealt with. He was contacted mid-February and reminded about the invoice. He asked them to resend it and on April 23, 2011 withdrew \$455.00 in cash from his personal account including \$40.00 extra for gas but couldn't connect with the company as they were moving offices. He dropped off the payment on April 25, 2011.

He referred to Mr. Berry's concern that he refunded the surplus money to himself and clarified that didn't happen. Had he included the website in his original filing, the form would have shown an increase to candidate contribution of \$414.27 and an increase to eligible campaign expenses of \$850.77 which would have altered page 1 on Form 4 to reflect a change to total contributions received and total of all campaign expenses to \$2,952.27. No surplus or deficit.

Mr. Passero advised he did not contravene the *Act* during his campaign however, he erred by way of an omission on his filing. If an audit is ordered and there is a penalty for not properly filing paperwork, he will accept it.

Following Mr. Passero's presentation, a question and answer period followed with the Committee.

5. Committee Consideration of Application and Decision

Re: Committee to determine to grant or reject Application

Resolution No. 6
Moved by: John K. Bice

THAT:Having reviewed the written materials filed by the Applicant and the Candidate, and having heard the oral submissions by both parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby grants a compliance audit of the election campaign finances of Stephen Passero, candidate in the October 25, 2010 municipal election, since the Committee is satisfied that reasonable grounds have been demonstrated that the Candidate appears to have contravened the provisions of the said *Act* relating to election campaign finances, and further

THAT:The scope of the audit shall be all inclusive. (CARRIED)

7. Auditor's Report

Re: If Application granted - Appointment of Auditor

Resolution No. 7
Moved by: John K. Bice

THAT:The Compliance Audit Committee hereby appoints and directs the Clerk to engage the services of an auditor to conduct a compliance audit of the election campaign finances of Stephen Passero, candidate in the October 25, 2010 municipal election in accordance with Resolution No. 6 dated July 12, 2011 and hereby directs the Clerk to execute a Letter of Engagement with the said auditor. (CARRIED)

11) APPLICATIONS FOR COMPLIANCE AUDIT– APPLICATIONS BY RICHARD L. BERRY AND JOHN C. GILMOUR FOR CANDIDATE DOUG MARTIN, MAYOR

1. Attachments: (a) Applications
(b) Candidate's Financial Statement
(c) Written Submissions

2. Introduction and Recording of Applicants and Candidate

Re: Candidate and Applicants (or agents) to provide names and mailing addresses to the Clerk.

Chair Andrews requested the Candidate and Applicants to come forward and state their names and addresses for the Clerk:

Doug Martin, Candidate, 32 Highland Avenue, Fort Erie.
Richard L. Berry, Applicant, 2491 Dominion Road, Ridgeway.
John C. Gilmour, Applicant, 158 High Street, Fort Erie.

3. Presentation by Applicants (or agents)

- (i) Mr. Berry addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. He stated on Page 7 of 8, Schedule 3 of Mr. Martin's financial statement he claims he only brought in 200 signs valued at \$100.00 from his previous campaign. Mr. Berry had in his possession a lawn sign from Mr. Martin's campaign that has a Re-Elect sticker on both sides of the sign which would appear to be a sign from Mr. Martin's previous campaign. Since Mr. Martin did not claim any signs from his previous campaign it would indicate that he contravened the *Municipal Elections Act*. He referred to Section 65 of the *Act* respecting expenses. He advised Mr. Martin has been in the political arena for a number of years and should be versed in the rules of the *Act*. Mr. Berry believed Mr. Martin knowingly contravened the *Act* because he reported the inventory of 200 signs from his last campaign.

Mr. Berry explained when filing his compliance audit application the Town Clerk informed him that Mr. Martin sent her a letter regarding his failure to claim the signs he used from his previous campaign. The letter read: *"Attached is an invoice that I received on April 7, 2011. Please add this to my file as an expense for my Election Statement. Also it appears that my statement of expenses has been understated regarding carry over of inventory from last election. It should have included 500 signs @ \$2.00 each for a total of \$1,000.00."* The invoice was attached to Mr. Martin's letter. Mr. Berry also referred to the letter he was shown by the Clerk when he went in to make his request for an audit and complained who would have known anything about this had the Clerk not shown him the Martin letter of April 2011 explaining the oversight in making reference to an inventory of signs from the last election.

He questioned why the invoice was dated in 2011 for a 2010 election and if the invoice was for Re-Elect stickers that Mr. Martin put on his previous campaign signs. He further questioned if the cost of the old signs matched the cost of signs Mr. Martin purchased for his 2010 campaign. Section 67 of the *Act* states Mr.

Martin should claim the replacement value of the old inventory. On Page 2 of 8 under expenses Mr. Martin showed an expense of \$2,169.03 for signs. At \$2.00 per sign that would be approximately 1,000 signs. He questioned if those numbers matched Mr. Martin's invoice.

Mr. Berry referred to another claim on Mr. Martin's financial statement from Bridgewater Tournaments. He asked the Compliance Committee to investigate as to whether or not Bridgewater Tournaments is a corporation that can make an eligible contribution.

In closing, based on an apparent contravention of the *Municipal Elections Act* respecting Mr. Martin's signs and his belief that Bridgewater Tournaments is not a corporation, Mr. Berry requested the Compliance Audit Committee to request a full audit of Mr. Martin's campaign finances.

Following Mr. Berry's presentation, a question and answer period followed with the Committee.

- (ii) Mr. Gilmour advised the Committee has his application, a copy of which is available in the Clerk's Office. He is challenging the intentional or unintentional omissions on Mr. Martin's Form 4 and found it hard to believe Mr. Martin forgot about the signs. He happened to note that Mr. Martin's signs were more prevalent than Ms. Noyes' signs by a large amount. In asking for this audit he assumed if the signs were not accounted for then other things may not have been filed.

Following Mr. Gilmour's presentation, a question and answer period followed with the Committee.

4. Presentation by Candidate (or agent)

Mr. Martin confirmed a reporting error was made in his financial statement and referred to the rationale included in the materials for this meeting agenda. Mr. Martin explained they packed everything up in the 2006 election. With the opening of the 2010 election about 500 signs were left which were not in too bad of shape. The printer suggested using "Re-elect stickers." The stickers seemed to be sufficient. He ordered a number of Re-elect signs as well.

From election to election, Mr. Martin explained many signs are destroyed or defaced or stolen. He had about 500 signs left over and they decided to reuse them as well as ordering new signs.

Mr. Martin indicated there were two recounts. He asked for an extension of his campaign period to raise additional funds. However, since he didn't have a deficit, he couldn't ask for an extension of the filing period to June. Even though he was incurring costs from May 25th to June, he couldn't claim the expenses.

His auditor was not aware of the error. As soon as he noticed it, he filed a letter with the Clerk for the record. It was about \$2.00 per sign. Mr. Martin stated if the Committee thought it was insufficient, they could adjust it since he would still be within the spending limit with about a \$7,000.00 cushion. He gave a copy of the invoice to the Clerk.

In closing, Mr. Martin repeated his confirmation there was a reporting error. As soon as he noticed the error he submitted a notice to the Clerk. With the additional signs as pointed out by Mr. Berry, Mr. Martin stated he was still well within the spending limit.

With respect to the donation from Mr. Kompson, he stated he paid for his office space and there was no gratuity.

In conclusion, there was a reporting error which had no effect on the spending limit.

Following Mr. Martin's presentation, a question and answer period followed with the Committee.

5. Committee Consideration of Application and Decision

Re: Committee to determine to grant or reject Application
(Berry/Martin)

Resolution No. 8
Moved by: John K. Bice

THAT:Having reviewed the written materials filed by the Applicant and the Candidate, and having heard the oral submissions by both parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby grants a compliance audit of the election campaign finances of Doug Martin, candidate in the October 25, 2010 municipal election, since the Committee is satisfied that reasonable grounds have been demonstrated that the Candidate appears to have contravened the provisions of the said *Act* relating to election campaign finances, and further

THAT:The scope of the audit shall be all inclusive. (CARRIED)

6. Auditor's Report

Re: If Application granted - Appointment of Auditor (Berry/Martin)

Resolution No. 9
Moved by: John K. Bice

THAT:The Compliance Audit Committee hereby appoints and directs the Clerk to engage the services of an auditor to conduct a compliance audit of the election campaign finances of Doug Martin, candidate in the October 25, 2010 municipal election in accordance with Resolution No. 8 dated July 12, 2011 and hereby directs the Clerk to execute a Letter of Engagement with the said auditor. (CARRIED)

7. Committee Consideration of Application and Decision

Re: Committee to determine to grant or reject Application
(Gilmour/Martin)

Resolution No. 10
Moved by: David Barrett

THAT:Having reviewed the written materials filed by the Applicant and the Candidate, and having heard the oral submissions by both parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby grants a compliance audit of the election campaign finances of Douglas Martin, candidate in the October 25, 2010 municipal election, since the Committee is satisfied that reasonable grounds have been demonstrated that the Candidate appears to have contravened the provisions of the said *Act* relating to election campaign finances, and further

THAT:The scope of the audit shall be all inclusive. (CARRIED)

8. Auditor's Report

Re: If Application granted - Appointment of Auditor (Gilmour/Martin)

Resolution No. 11
Moved by: David Barrett

THAT:The Compliance Audit Committee hereby appoints and directs the Clerk to engage the services of an auditor to conduct a compliance audit of the election campaign finances of Douglas Martin, candidate in the October 25, 2010 municipal election in accordance with Resolution No. 10 dated July 12, 2011 and hereby directs the Clerk to execute a Letter of Engagement with the said auditor. (CARRIED)

**12. APPLICATIONS FOR COMPLIANCE AUDIT– APPLICATIONS BY
MICHAEL CLOUTIER AND SHAWN CHESNEY FOR CANDIDATE ANN-
MARIE NOYES. MAYOR**

1. Attachments: (a) Applications
(b) Candidate's Financial Statements
(c) Written Submissions (NIL)

2. Introduction and Recording of Applicants and Candidate

Re: Candidate and Applicants (or agents) to provide names and mailing addresses to the Clerk.

Chair Andrews requested the Candidate and Applicants to come forward and state their names and addresses for the Clerk:

Ann-Marie Noyes, Candidate, 2505 Ott Road, Stevensville
Michael Cloutier, Applicant, 655 Daytona Drive, Fort Erie
Shawn Chesney, Applicant, 24 Jarvis Street, Fort Erie

3. Presentation by Applicants (or agents)

- (i) Mr. Cloutier advised he was seeking a compliance audit for Candidate Ann-Marie Noyes, Candidate for Mayor in the October 25, 2010 election. He alleged that Ms. Noyes contravened the *Act* in that she began incurring expenses prior to the start of the campaign period, which either should have been the first business day of 2010 or when she filed her nomination paper.

He referred to a copy of the internet information included with the agenda package for this meeting although he stated it was not very legible. Mr. Cloutier informed the Committee the domain name was purchased on October 30, 2009. It was two months before Ms. Noyes became a Candidate. It was clearly a campaign related expense since the domain name was registered as “noyesformayor.com.” Mr. Cloutier stated it was a clear violation of the *Act*.

In addition, Mr. Cloutier advised the internet domain cost was not included in the financial statement. If there was a contribution from the web provider, it was not included in the form.

Mr. Cloutier further indicated that the financial statement of Ms. Noyes listed a contribution to another Candidate that exceeded the amount she was allowed to make to her own campaign. \$750.00 was contributed from STAR to her own campaign and STAR also contributed \$600.00 to the Steckley campaign. In return, Ms. Noyes received \$300.00 from Bob Steckley and \$300.00 from Debbie Steckley, his wife.

While there is no proof, Mr. Cloutier suggested it merits a look and compliance audit. The question should at least be asked, “was an arrangement made between the STAR Corporation to give money to Mr. Steckley and given money back resulting in STAR contributing more money than it was eligible to do so.”

- (ii) Mr. Chesney advised his written submission was included with his compliance audit application regarding the election campaign finances for Ann-Marie Noyes, a copy of which is available in the Clerk’s Office. In his summary, he suggested the campaign donation from FEWPA was in question since it was shaky as a corporation. He stated information on FEWPA’s website was about the Bay Beach condo project and support of other beach front properties. The website shows a U.S. address to mail cheques and Americans are not entitled to contribute to political campaigns. He questioned if FEWPA was a proper corporation to do business in Ontario.

4. Presentation by Candidate (or agent)

Ms. Noyes addressed the Committee from a prepared statement, a copy of which is available in the Clerk's Office. She reiterated the list of reasons the applicants have made to the Compliance Committee. With respect to the claim that the Fort Erie Waterfront Preservation Association (FEWPA) donation of \$650.00 was improper and contravened the *Act*, she clarified FEWPA is an incorporated company Ontario #1810577 and she provided Letters of Patent dated December 4, 2009 and March 10, 2010.

She recited Sections 66(1) and (3) of the *Act* respecting contributions. She further stated FEWPA, an Ontario registered corporation, did not exceed the \$750,000 to any one candidate or exceed the total amount of \$5,000.00 to two or more candidates. Accepting the contribution was not in contravention of the *Act*.

Ms. Noyes stated the contribution to Mr. Steckley's campaign was not a contravention of the *Act* and again recited Sections 66(1) and (3) of the *Act* respecting contributions. As per the *Act*, Strategic Treatment Assessment and Rehabilitation (STAR) made a legal contribution to Mr. Steckley's campaign since STAR, a registered company (1254365 Ontario Ltd.) did not exceed \$750.00 to any one candidate or exceed the total amount of \$5,000.00 to two or more candidates running in the same council election. STAR in total donated \$750.00 to Ms. Noyes and \$600.00 to Mr. Steckley.

Ms. Noyes explained as per the *Act*, she accepted legal contributions from Bob Steckley and Debbie Steckley in the amount of \$300.00 each. Mr. and Mrs. Steckley both appeared on the voters list, are eligible contributors, are Canadian citizens and their permanent residence is in the Town of Fort Erie. As well, John Steckley (Bob's Dad) contributed \$350.00 and Bob Steckley also contributed goods and services for \$197.00 as listed on the audited financial statement. Bob Steckley also supported her by taking care of her campaign signs in his ward. She clarified prior to STAR making a contribution to Mr. Steckley's campaign, she checked with STAR's accountant who assured her that it was legal. She referred to her accountant's letter that described the lack of tax advantage to either Mr. Steckley or herself.

Ms. Noyes advised there was no contravention of the *Act* respecting the internet domain purchased and registered "noyesformayor.com" prior to declaring/registering as a candidate: money spent outside of the campaign period. The internet domain purchased was not disclosed on Form 4. She explained on the day she reserved the domain name for her possible campaign for Mayor, she was not thinking election laws and was not sure she would be running for Mayor. She reserved the web domain name, paid with by her credit card, not thinking about possible

contravention of the *Municipal Elections Act*. The Town Clerk reminded her around January 15, 2010 when the Clerk heard she was having an announcement ceremony at the Stevensville Conservation Club, that she could not spend any money on her campaign prior to registering. She then registered almost immediately. This expenditure was included in her financial audited statements. She undertook to provide a letter from her accountant, copies of the invoice and cheque. At the announcement ceremony on January 16, 2010 contributions including cheques and “pass the hat” donations were made. She collected \$70.00 in cash (all less than \$10.00 contributions) for the campaign which she put towards petty cash and paid from this the cost for reserving the web domain name in the amount of \$43.39 which was included in the audited financial campaign statement.

Ms. Noyes explained there was no activity on the web domain name/site and it could not be used until it was activated which she did so on June 29, 2010 at a cost of \$19.96, paid on her credit card, which was reimbursed to her by cheque #86 from the campaign account. She brought this early expenditure to the auditor and enquired whether he should put that in a letter which he did not think was necessary. All expenditures related to the web domain name and activation of the site had been included in the campaign expenses. Ms. Noyes stated she included a letter supporting this disclosure to the auditor prior to the financial audit being completed. She also brought this early expenditure to the attention of the Clerk prior to filing her financial statements and asked if there was anything she should do. The Clerk responded “it is nothing, don’t worry about it.” To conclude she did not knowingly contravene the *Act* and recited Section 92 of the *Act* respecting election campaign finance offences.

In closing, Ms. Noyes stated she did inadvertently contravene the *Act* which she disclosed to the auditor and Clerk. She read an excerpt from the covering letter of her financial audited report: *“In our opinion, except for the effect of adjustments, if any, which might have determined to be necessary had we been able to satisfy ourselves as to the completeness of the records described in the proceeding paragraph, these financial statements present a fairly, in all material respects, the financial position of the candidate’s election campaign as at March 25, 2011 and the income and expenses for the campaign period from January 15, 2010 to March 25, 2011 and the determination of surplus or deficit and the disposition of surplus in accordance with the accounting treatment prescribed by the Municipal Elections Act, 1996.”*

Following Ms. Noyes’ presentation, a question and answer period followed with the Committee.

5. Committee Consideration of Applications and Decision

Re: Committee to determine to grant or reject Applications
(Cloutier/Noyes and Chesney/Noyes)

Resolution No. 12
Moved by: David Barrett

THAT:Having reviewed the written materials filed by the Applicants and the Candidate, and having heard the oral submissions by all parties, pursuant to Section 81(5) of the *Municipal Elections Act, 1996*, as amended, the Compliance Audit Committee hereby grants a compliance audit of the election campaign finances of Ann-Marie Noyes, candidate in the October 25, 2010 municipal election, since the Committee is satisfied that reasonable grounds have been demonstrated that the Candidate appears to have contravened the provisions of the said *Act* relating to election campaign finances, and further

THAT:The scope of the audit shall be all inclusive. (CARRIED)

6. Auditor's Report

Re: If Applications granted - Appointment of Auditor (Cloutier/Noyes
and Chesney/Noyes)

Resolution No. 13
Moved by: David Barrett

THAT:The Compliance Audit Committee hereby appoints and directs the Clerk to engage the services of an auditor to conduct a compliance audit of the election campaign finances of Ann-Marie Noyes, candidate in the October 25, 2010 municipal election in accordance with Resolution No. 12 dated July 12, 2011 and hereby directs the Clerk to execute a Letter of Engagement with the said auditor. (CARRIED)

13) ADJOURNMENT

Resolution No. 14
Moved by: David Barrett

THAT:The Compliance Audit Committee Meeting hereby adjourns at 5:35 p.m.(CARRIED)

Prepared by:

Carolyn J. Kett
Town Clerk
Town of Fort Erie

Reviewed by Compliance Audit Committee Members:

Allan Andrews

David Barrett

John K. Bice