

Returning Officer's Report to
Combined Meeting of Council
2020 November 2

ISC: UNRESTRICTED
C2020-1158
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Pre-election Disclosure of Campaign Contributions by Returning Officer

RETURNING OFFICER'S RECOMMENDATION:

That Council receive this report for the Corporate Record.

HIGHLIGHTS

- This report outlines the means by which public access to voluntary pre-election contribution disclosures, for candidates who wish to issue them, can be supported.
- What does it mean to Calgarians? Calgarians will be able to use the Elections Calgary website to access information about candidates, through links to candidates' websites, as well as candidate profiles and videos.
- Why does it matter? Candidates can use their websites, or the candidate profiles and videos on the Elections Calgary website, to provide information to the public, including any pre-election contribution disclosures they may wish to voluntarily provide.
- Bill 29 amendments to the *Local Authorities Election Act*, which came into force on 2020 September 1, removed the authority for The City to pass a bylaw regulating pre-election contribution disclosures.
- At the 2020 September 14 Combined Council meeting, Council requested that the Returning Officer investigate publishing pre-election candidate contributions on the Elections Calgary website for candidates who wish to voluntarily participate, and to report back as to cost, timelines and feasibility at the 2020 November 2 Combined Meeting of Council.
- Strategic Alignment to Council's Citizen Priorities: A well-run city.

DISCUSSION

The *Local Authorities Election Act* (the Act) clearly defines the roles and responsibilities of returning officers, candidates and contributors regarding campaign finances, including the scope, timing and availability of disclosure to the public.

Bill 29 recently changed the Act (effective 2020 September 1) by explicitly removing The City's authority to pass a bylaw to regulate pre-election financial disclosures. The Returning Officer's role respecting election finances and contributions disclosure is clear. The Act does not provide the Returning Officer with authority to collect and disclose information about election contributions prior to an election, only afterwards.

Section 13.1 of the Act requires that "a returning officer must be independent and impartial when performing the duties of a returning officer." In order to maintain their impartiality, the Returning Officer must avoid being drawn into activities that are outside of their statutory role which could create a basis for electors to draw adverse inferences against candidates who otherwise comply with statutory requirements.

There would also be legal and reputational risks if the Returning Officer were to host candidates' pre-election contribution records on the Elections Calgary website. Those risks relate to disclosing third party personal information (contained on pre-election campaign contribution records) without having been directly involved in managing the consent to collect, use and disclose contributor records, and without any authority to review or regulate the form by which this information is collected or presented.

Pre-election Disclosure of Campaign Contributions by Returning Officer

Candidates may provide whatever information to prospective voters that they wish to, including pre-election disclosure of their campaign contributions. Candidates would be well-advised to seek legal advice on the implications, obligations or practical considerations associated with posting records about contributors on their campaign websites, including obligations to ensure that contributors are aware that information about their contributions, including their personal information, may be made public.

As it did during the last General Election, Elections Calgary will continue to provide the public with access to information about candidates through links to candidates' websites, candidate profiles, and candidate videos. Candidates can use these opportunities, if they wish, to share information about their approach to disclosure of campaign contributions. Elections Calgary will provide appropriate information and guidance to the public about the context for this information, including that candidates' website content cannot be compelled, enforced or complained upon. Elections Calgary does not review candidates' websites, nor provide any assurances respecting the accuracy, thoroughness or legality of such website content. Elections Calgary will be developing website content respecting candidates during Q2 2021.

STAKEHOLDER ENGAGEMENT AND COMMUNICATION (EXTERNAL)

- Public Engagement was undertaken
- Public Communication or Engagement was not required
- Public/Stakeholders were informed
- Stakeholder dialogue/relations were undertaken

IMPLICATIONS

There are no social, environmental or economic impacts associated with the recommendations of this report.

Service and Financial Implications

The costs of web development and communications activities described above are already included within Elections Calgary budget.

RISK

Continuing to facilitate public access to general information about candidates aligns with the public interest in electors having opportunities to understand the choices they face on ballots, and has been well received by both candidates and electors in previous elections.

ATTACHMENT

None.

Department Circulation

General Manager	Department	Approve/Consult/Inform