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For Immediate Release

By-Election Candidate(s) Failure to File Campaign Disclosure Statements

July 13, 2020, Olds, Alberta

The Town of Olds By-Election was held on January 20, 2020. In accordance with section 147.4(1) of the *Local Authorities Election Act* ("LAEA"), all candidates are required to file campaign disclosure statements within 120 days after the by-election.

Five (5) of the seven (7) candidates filed the required campaign disclosure statements within the prescribed time.

As required by the LAEA, s. 147.8, the Chief Administrative Officer is required to transmit a report to council noting the candidate(s) who have failed to file their campaign disclosure statements. Upon receipt of the report by council, it must be made public.

Please find copies of both the Request for Decision and the Report to Council documents that were added to the Monday, July 13, 2020 Regular Council Meeting Agenda attached as information.

For more information:

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attachments(2)



Request for Decision

ADDED ITEM**'Report to Council'**

July 13, 2020

RECOMMENDATION

That Council accept the *'Report to Council'* as presented for information, and that the report be made public in accordance with Section 147.8(1)(1) of the Local Authorities Election Act.

STRATEGIC ALIGNMENT

The Town of Olds will respect people and the process ensuring a healthy environment where great decisions are made.

LEGISLATIVE AUTHORITY**Local Authorities Election Act****Effect of non-compliance in relation to disclosure statements**

147.8(1) Subject to section 147.7, if a candidate fails to file a disclosure statement as required by section 147.4

(a) in the case of an election of municipal councillors, the secretary shall transmit a report to that effect to council, which shall on its receipt make the report public.

BACKGROUND

The Town of Olds By-Election was held January 20, 2020. In accordance with section 147.4(1) of the *Local Authorities Election Act* ("LAEA"), all candidates are required to file campaign disclosure statements within 120 days following the by-election. In the case of the 2020 by-election, the deadline to file was May 19, 2020.

Five (5) of the seven (7) candidates have filed the required campaign disclosure statements within the prescribed time.

As required by the LAEA, s. 147.8, the Chief Administrative Officer must transmit a report to council noting the candidate(s) who have failed to file their campaign disclosure statements within the prescribed time. Upon receipt of the report by council, it must be made public.



In addition to the above, the LAEA, section 205, requires that the Town of Olds notify the Alberta Election Commissioner, within a reasonable time, to report any act or omission that in the Town of Olds' opinion likely constitutes an offence under the LAEA. Section 147.84 of the LAEA specifies that a candidate who fails to file a campaign disclosure statement within 150 days after the by-election is guilty of an offence and liable to a fine of not more than \$5000. This report will be sent to the Alberta Election Commissioner following the July 13, 2020 regular Council meeting.

RISK/CONSEQUENCES

Should the Chief Administrative Officer not transmit a *Report to Council* and *notify the Alberta Election Commissioner* on the failure to file campaign disclosure statements, then the municipality would be in violation of LAEA requirements.

ATTACHMENTS

1. **Report to Council** - dated July 13, 2020

Author:	Marcie McKinnon Legislative Clerk 	Date: July 13, 2020
CAO Signature:		Date: <i>July 13, 2020</i>



Town of Olds

Report to Council

Local Authorities Election Act, Part 5.1 Election Finances and Contributions Disclosure

July 13, 2020

The Town of Olds By-Election was held January 20, 2020.

In accordance with section 147.4(1) of the *Local Authorities Election Act* (LAEA), all candidates were required to file campaign disclosure statements within 120 days after the by-election. In the case of the 2020 by-election, the deadline to file was May 19, 2020.

The following candidates failed to file their campaign disclosure statements in the prescribed time frame:

Mr. Darcy Dobush of Olds, AB

Mr. Donald Mitchel (Mitch) Thomson Olds, AB

Candidates for election, including by-elections, are required to file Form 4, Nomination Paper and Candidate's Acceptance, as prescribed by the LAEA. The Candidates Acceptance includes a candidate swearing to a number of items, including that they have read Part 5.1 (Election Finances and Contributions Disclosure) of the LAEA and that they understand its contents.

- A candidate who has failed to file their disclosure statement within 120 days after the by-election must pay a \$500 late filing fee to the municipality.

In accordance with the LAEA, *Late Filing, Section 147.7 (4) If the late filing fee is not paid within 30 days after the date the fee was payable, the local jurisdiction shall send a notice to the candidate, indicating the amount of the late filing fee that is required to be paid.*

- Thirty (30) days after original deadline to file, was June 18, 2020.
- Each candidate was sent the *Notice to Candidate* via Canada Post registered mail July 3, 2020.
- Canada Post tracking service confirms both packages were delivered July 7, 2020.
- The *Notice to Candidate* mailed to each candidate July 3, 2020 speaks to the late filing penalty that is due.

If the late filing fee is not paid, the Town of Olds may file a copy of this notice with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

As required by the LAEA, s. 147.8, the Chief Administrative Officer is required to transmit a report to council noting the candidate(s) who have failed to file their campaign disclosure statements. Upon receipt of the report by council, it must be made public.

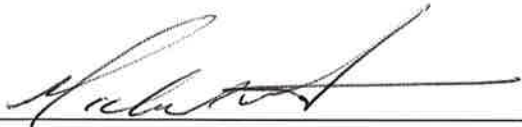
- This document is the 'Report to Council' transmitted at the July 13, 2020 regular council meeting.
- This 'Report' will be made public immediately following today's July 13, 2020 Council meeting, by releasing a Press Release with the Report to Council and updating the Town of Olds website July 13, 2020 agenda package to include both the added item and the Report to Council.

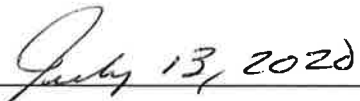
A candidate may, within the 60-day period following the date on which the report to council is made public, apply to the Court of Queen's Bench for relief. Upon hearing the application, the Court may dispense with compliance, extend the time for compliance, make an order to secure compliance, or refuse the application.

Once a report has been transmitted to council, a candidate who has not been relieved from the obligation to file a disclosure statement by a court order, is ineligible to be nominated for election for the applicable period of time prescribed in that section. If the person is currently serving on council, sections 174(1)(b.1) and 175(1) of the *Municipal Government Act* state that the councillor is disqualified from council and must resign immediately. *Ineligibility* of a future candidate is covered under Section 22 of the LAEA.

- Each candidate has 60 days to apply to court for relief. (Court proceedings do not have to be completed, only that an application has been made within the 60 days from July 13, 2020.)
- The Town of Olds is required to notify the Alberta Election Commissioner, within a reasonable time, to report any act or omission that in the Town of Olds opinion likely constitutes an offence under the LAEA. Section 147.84 of the LAEA specifies that a candidate who fails to file a campaign disclosure statement within 150 days after the by-election is guilty of an offence and liable to a fine of not more than \$5000.
- This report will be sent to the Alberta Election Commissioner following today's July 13, 2020 regular Council meeting.

Please find attached the relevant references to the *Local Authorities Election Act (LAEA)* and the *Municipal Government Act (MGA)* for your information.


Secretary, Michael Merritt


Date

** Sections noted in **blue** are for Council's information and to confirm actions completed by Legislative Services as required by the LAEA.**

Attachment: References to *Local Authorities Election Act & Municipal Government Act*

Campaign Disclosure Statements – *Local Authorities Election Act*

147.4(1) On or before March 1 immediately following a general election or, in the case of a by-election, within 120 days after the by-election, a candidate shall file with the secretary of the candidate's local jurisdiction a disclosure statement in the prescribed form [...]

Late Filing - *Local Authorities Election Act*

Late filing

147.7(1) In this section, "filing deadline" means the day by which a disclosure statement referred to in section 147.4 is required to be filed with a local jurisdiction.

(2) A candidate who is required to file a disclosure statement under section 147.4 and fails to file that document by the filing deadline must pay a late filing fee of \$500 to the relevant local jurisdiction.

(3) A local jurisdiction shall not transmit a report in relation to a candidate under section 147.8 if the return is filed no later than 10 days after the filing deadline.

(4) If the late filing fee is not paid within 30 days after the date the fee was payable, the local jurisdiction shall send a notice to the candidate, indicating the amount of the late filing fee that is required to be paid.

(5) If a candidate who is sent a notice by the local jurisdiction under subsection (4) fails to pay the late filing fee set out in the notice, the local jurisdiction may file a copy of the notice with the clerk of the Court of Queen's Bench, and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.

Effect of Non-Compliance in Relation to Disclosure Statements - *Local Authorities Election Act*

Effect of non-compliance in relation to disclosure statements

147.8(1) Subject to section 147.7, if a candidate fails to file a disclosure statement as required by section 147.4

(a) in the case of an election of municipal councillors, the secretary shall transmit a report to that effect to council, which shall on its receipt make the report public.

Candidates may apply for Court Relief - *Local Authorities Election Act*

147.8 (2) A candidate under subsection (1) may, within the 60-day period following the date on which the report under subsection (1) is made public, apply to the Court for relief.

(3) On hearing the application, the Court may

(a) dispense with compliance with section 147.4, or any provision of it, if it considers that the non-compliance is due to circumstances beyond the control of the candidate and that it is not reasonably possible to comply with that section,

- (b) extend the time for compliance with section 147.4, or any provision of it, if it finds mitigating reasons for non-compliance with the section,
- (c) make any order that it considers appropriate to secure compliance with as much of section 147.4 as it considers reasonable in the circumstances, or
- (d) refuse the application.

(4) A candidate may apply to the Court under this section and name the municipality or the school board, as the case may be, as the respondent.

(5) The decision of the Court is final and not subject to appeal.

Effects of Failing to File – Local Authorities Election Act

Failure to file

147.84(1) A candidate who fails to comply with section 147.4 by April 1 in the year following a general election, or, in the case of a by-election, within 150 days after the by-election, is guilty of an offence and liable to a fine of not more than \$5000.

(2) If a candidate is found guilty of contravening section 147.4, the Court may, in addition to the penalty provided for in subsection (1), order the candidate to pay any surplus to the local jurisdiction as soon as possible.

(3) Section 147.5(2) to (5) apply to money paid to a local jurisdiction pursuant to a court order under this section.

Duty to refer complaints and allegations and to report acts or omissions

205 A local jurisdiction or returning officer shall, within a reasonable time,

- (a) refer any complaint or allegation received by the local jurisdiction or returning officer under Part 5.1 or 8 to the Election Commissioner, and
- (b) report any act or omission that in the local jurisdiction or returning officer's opinion likely constitutes an offence under this Act to the Election Commissioner.

Ineligibility

22(1.2) A person is not eligible to be nominated as a candidate for election as a councillor or a school board trustee if

- (a) a report was transmitted under section 147.8(1) in respect of the person,
- (b) the Court did not dispense with, or extend the time for, compliance with section 147.4 by an order under section 147.8(3), and
- (c) subject to subsection (1)(d.1), nomination day for the election occurs within
 - (i) the 8-year period following the day on which the secretary transmitted the report to council or the school board, or

(ii) where the disclosure statement required by section 147.4 has been filed with the secretary, the 3-year period following the day of filing,

whichever period expires first.

Effects of Failing to File – *Municipal Government Act*

Reasons for disqualification

174(1) A councillor is disqualified from council if

(a) when the councillor was nominated, the councillor was not eligible for nomination as a candidate under the *Local Authorities Election Act*;

(b) the councillor ceases to be eligible for nomination as a candidate under the *Local Authorities Election Act*;

(b.1) the councillor

(i) fails to file a disclosure statement as required under section 147.4 of the *Local Authorities Election Act* before the end of the time period referred to in section 147.7 of the *Local Authorities Election Act*, and

(ii) has not been relieved from the obligation to file a disclosure statement by a court order under section 147.8 of the *Local Authorities Election Act*;

Resignation on disqualification

175(1) A councillor that is disqualified must resign immediately.

(2) If a councillor does not resign immediately,

(a) the council may apply to a judge of the Court of Queen's Bench for

(i) an order determining whether the person was never qualified to be or has ceased to be qualified to remain a councillor, or

(ii) an order declaring the person to be disqualified from council,

or

(b) an elector who

(i) files an affidavit showing reasonable grounds for believing that a person never was or has ceased to be qualified as a councillor, and

(ii) pays into court the sum of \$500 as security for costs,

may apply to a judge of the Court of Queen's Bench for an order declaring the person to be disqualified from council.