

Re: Auditors

At the Council meeting of July 9, 1973, it was suggested that consideration should be given to the matter of inviting proposals for the services of outside auditors. In this connection, the Municipal Manager was asked to submit a report on this suggestion.

The appointment of auditors is a requirement spelled out in Clause 308 of the Municipal Act which reads as follows:

- "(1) The Council shall appoint an auditor to audit the accounts and transactions of the municipality and of every other administrative body handling municipal funds for which no statutory audit provision is made.
- (2) The Clerk shall notify, in writing, the auditor and the Inspector of Municipalities forthwith of every appointment made pursuant to subsection (1), and of the termination of engagement of every appointee.
- (3) Where the engagement of an auditor is terminated,
  - (a) the auditor may within one month of notification of such termination appeal in writing against the decision of the Council to the Minister, who may confirm or set aside the termination;
  - (b) the auditor shall file a copy of his notice of appeal with the Clerk;
  - (c) the Council shall not appoint another auditor until the time allowed for an appeal by the auditor has elapsed or, if an appeal has been made, until the appeal has been dealt with by the Minister.
- (3a) The termination of the engagement of an auditor is not effective until his successor has been appointed.
- (4) Where, in the opinion of the Minister, the auditor has discharged his duties in a negligent manner, he may require the Council to dispense with the services of the auditor and to appoint another person as auditor.
- (5) Any auditor discharged as provided for in subsection (4) may appeal within ten days against the order of the Minister to the Lieutenant-Governor in Council, who may confirm or set aside the order of the Minister. 1957, c.42, s.307; 1958, c.32, s.138; 1968, c.33, s.93."

The other pertinent Sections of the Municipal Act dealing with Accounts and Audit are Numbers 309 to 315 inclusive and are attached for the information of those members of Council who do not have a copy of the Municipal Act.

Generally speaking, it is felt that auditors are dismissed for cause or because of monetary considerations. To the best of our knowledge, the auditors have carried out the duties assigned them by the Municipal Act and the several tasks of certification of accounts required under Provincial and Federal loan or grant programs. Their fee is currently \$10,000, not an overly large sum for the work expected to be done.

The staff, with respect, do not feel that there needs to be a change of auditors but this final decision is one which must properly be made by Council after reviewing the matter. We would point out that, in effect, the Corporation's auditors were changed in late 1971 when Chadwick, Potts and Co. merged with Touche, Ross and Co. While the principals of Chadwick, Potts and Co. remained with Touche, Ross and Co., the audit team involved in Burnaby's account is new to Burnaby.

Continued ...

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Unless it can be shown that the auditors are not satisfactorily performing their duties, what is the benefit of a change in auditors? This is a debatable point, for in an account as large and complex as Burnaby's, completely new auditors require several years to obtain an understanding of a new client's business and accounting processes. We feel that it is not until about the third year that the auditors function as well as they should.

We are reluctant to say much more than we already have in this report item, for it is not proper for the staff to make recommendations with respect to the auditors who are appointed by statute with certain statutory duties involved in checking staff. We pointed out that the auditors are engaged by Council and should officially report to Council. We also point out that where the engagement of an auditor is terminated, according to the Municipal Act, the auditor may within one month of notification of such termination, appeal in writing against the decision of the Council to the Minister, who may confirm or set aside the termination. Even though we know of no such appeal having been made in this Province, that right always exists.

We do feel that there is an area where it would be proper for the staff to comment on this particular subject so as to improve the present situation. Auditors' reports tend to be in a form prescribed by the Municipal Act except in cases where it is necessary to draw Council's attention to some defalcation or other irregularity, and when this happens, it becomes necessary for the auditor to file his report with the Minister of Municipal Affairs as well as the Council. Most reports of a financial nature going to the Department of Municipal Affairs bear the signature of the Municipal or City Treasurer as well as the signature of the auditor. We, therefore, feel that either the Council as a whole, or the Mayor and the Liaison Alderman for Finance, should interview the auditors so that a better understanding of their function may be had. Their duties are set out in the Municipal Act and these duties are the ones that they normally carry out; however, they have a variety of especially trained men on staff and are available to carry out special duties should that become necessary. We further recommend that the Council invite the auditors to meet with them or with the Mayor and the Liaison Alderman for Finance at least once a year as a matter of policy. At such a time, all matters of interest may be discussed.

In conclusion, the final decision as to whether or not proposals should be invited by Council for auditors rests solely with Council, and this is as it should be. We do, however, recommend certain improvements to the system presently followed, no matter who the auditors are.

RECOMMENDATION:

THAT the Mayor and Liaison Alderman for Finance meet with the auditors to clearly understand the function that they have and the type of special studies that they can undertake; and

THAT the Mayor and Liaison Alderman for Finance meet at least annually with the auditors, at which time matters of interest may be discussed.

Procedure  
in case  
Council  
neglects to  
appoint an  
auditor.  
Remunera-  
tion to be  
paid auditor.

**309.** (1) In case a Council fails or neglects to appoint an auditor, the Minister may, upon giving one month's notice of his attention so to do to the Mayor, appoint some person or persons as auditor.

(2) The Minister may fix the remuneration to be paid by the municipality to the appointee of the Minister, and may in his discretion place a limit on the period of such appointment. 1957, c. 42, s. 308; 1968, c. 33, s. 94.

Duties and  
powers of  
auditor.

**310.** The duties and powers of the auditor are as follows:—

- (a) The auditor shall make such examination as is consistent with good auditing practice of the records, including the books, documents, accounts, vouchers, receipts, investment securities, debentures, and matured debentures paid, of the municipality or relating to any matter or thing under the jurisdiction or control of the Council or of any other administrative body handling municipal matters or funds:
- (b) The auditor has at all times the right of access to any and all of the records mentioned in clause (a), and to any others, of the municipality or other aforesaid administrative body:
- (c) The auditor is entitled to require from members of the Council or other administrative body, and from officials of the municipality or other administrative body, and from any other person, any information or explanation necessary for the performance of his duties:
- (d) The auditor shall make a report to the Council on the records examined by him and on the balance-sheet and statement of revenue and expenditure of the municipality and of any other administrative body handling municipal funds, and such report shall state
  - (i) whether or not he has obtained all the information and explanations he has required;
  - (ii) whether in his opinion the balance-sheet and the statement of revenue and expenditure referred to in the report are properly drawn up so as to exhibit truly and correctly the state of the affairs and the results of the operations of the municipality as at the thirty-first day of December and for the year then ended, according to the best of his information and explanations given to him and as shown by the books of the municipality;
  - (iii) whether the several forms of accounts in use or the accounting procedures and financial controls followed by the officials of the municipality and other administrative bodies are inadequate and in what respect they are inadequate:
- (e) The auditor shall further report to the best of his knowledge and ability
  - (i) in what respects he finds the books, documents, accounts, or vouchers incorrect, unvouched, or lacking proper authority under this or any other Act, or under any by-law or resolution adopted or passed thereunder;
  - (ii) in what respect any disbursement, expenditure, liability, or transaction is without apparent authority;
- (f) In addition to the examination and reports required by this section, the Inspector of Municipalities or the Council may at any time require such further examinations and reports from the auditor as may be deemed necessary, or the auditor may on his own initiative make any further examinations or reports as he may deem advisable, and in any such case the provisions of this section apply mutatis mutandis:
- (g) The auditor shall forward to the Inspector of Municipalities a copy of every report made by him to the Council. 1957, c. 42, s. 309; 1958, c. 32, s. 139.

Duty of  
auditor to  
report.

**311.** (1) The auditor shall report in writing to the Council and to the Minister every defalcation or irregularity dealing with the assets, liabilities, accounts, funds, and financial obligations of the municipality and of any other administrative body of the municipality, with the name of any person, or persons, deemed to be responsible, and shall likewise report any sum which ought to have been but is not brought into account by any person or persons. On application by any person named, the auditor shall state in writing his reasons for that part of his report concerning the named person.

Proceedings for prosecution or recovery.

(2) The Council shall promptly, upon receipt of any report under subsection (1), institute proceedings for prosecution or institute proceedings for recovery, or both, depending on the circumstances involved; and if no action at the suit of the municipality has been taken within fourteen days from the receipt by the municipality of the auditor's report, action at the suit of the Attorney-General may be taken for prosecution or recovery, or both, and any moneys so recovered, less costs of suit, shall be paid to the Treasurer of the municipality, to be placed to the credit of the fund or funds involved.

Penalties.

(3) It is the duty of the auditor in the event that any contemplated expenditure which, having been brought to his attention, is deemed by him to be lacking of proper authority under this or any other Act to forthwith notify the Mayor and some other officer of the municipality, and any other person he may think proper, of the lack of authority for such proposed expenditure, and such Mayor or officer or other person with knowledge that such proposed expenditure has been pronounced to be lacking of proper authority who shall permit or be a party or privy to the expenditure of such money is liable, on summary conviction, to a penalty of two hundred dollars, and is liable to an action at the suit of the municipality or of the Attorney-General for double the amount of such unauthorized expenditure, and, if he is a member of the Council, shall be disqualified from holding any municipal office for a period of five years from the date of his conviction; and any moneys so recovered, less costs of suit, shall be paid to the Treasurer, to be placed to the credit of a fund or funds according to the direction of the Court. 1957, c. 42, s. 310; 1958, c. 32, s. 140; 1968, c. 33, s. 95.

Duty of Council and officers to assist auditor.

**312.** Every member of the Council, and every officer or employee of the municipality, and every member and servant of any other administrative body handling municipal funds shall make available all records, books, and documents necessary for the audit or required by the auditor, and shall give the auditor every reasonable facility and furnish full information and explanation concerning the affairs of the municipality or other administrative body necessary for the performance of his duty. 1957, c. 42, s. 311.

Powers of auditor, call for books and documents.

**313.** (1) For the purpose of, and in connection with, any audit under this Act, the auditor may, by summons in writing, require

- (a) the production before him of all records, books, deeds, contracts, accounts, vouchers, receipts, and other documents and papers;
- (b) the production before him of all moneys and securities;
- (c) any person holding or accountable for any such records, books, deeds, contracts, accounts, vouchers, receipts, documents, papers, money, or securities to appear before him at any such audit, and to make and sign a declaration as to the correctness of the same.

(2) A person who neglects or refuses to comply in any respect with a summons issued under subsection (1) is liable for each neglect or refusal, on summary conviction, to a penalty not exceeding one hundred dollars.

(3) A person who falsely or corruptly makes or signs any such declaration as aforesaid, knowing the same to be untrue in any material particular, is liable, on summary conviction, to a penalty not exceeding five hundred dollars. 1957, c. 42, s. 312.

Penalty for removal of records, books, and other documents from municipal office.

**314.** (1) The auditor shall not, without the sanction of the Council or without an order of a Judge of the Supreme Court, remove or cause to be removed any records, books, deeds, contracts, accounts, vouchers, receipts, documents, papers, money, or securities from the office of the municipality or other place where the same may repose for safe-keeping.

(2) An auditor who violates the provisions of subsection (1) is liable, on summary conviction, to a penalty not exceeding five hundred dollars.

(3) Nothing in this section prohibits the auditor from transferring records, books, deeds, contracts, accounts, vouchers, documents, or papers from one office of the municipality to another for the convenience of the audit. 1957, c. 42, s. 313; 1968, c. 33, s. 96.

Rights of electors.

**315.** (1) Any elector of the municipality may in writing lodge with the auditor an objection to any item of account or other matter relating to an audit then in progress.

(2) Upon receipt of any objection as provided for in subsection (1), the auditor shall appoint a time and place for dealing with the objection, and shall give notice thereof to such elector.

(3) The auditor shall consider the matters before him, and if in his opinion the objection comes within the scope of section 311, he shall forthwith proceed in the manner set out therein.

(4) Nothing in this Part shall be construed to prevent an elector, or a group of electors, from exercising any right to take action for recovery on behalf of the municipality. 1957, c. 42, s. 314; 1958, c. 32, s. 141.

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