

## COMMENTS TO THE 2018 ELECTION AUDIT COMMITTEE FOR TML

I would like to thank the committee for giving me the opportunity to address you today and to request a review and audit of election expenses for one candidate and two registered third party advertisers.

We are indeed fortunate in Canada to have election processes and legislation that provides for reasonably unbiased, fair and open elections. Our public places their trust in a process that respects these basic principles. Without these elements of trust and respect in the electoral process, by the public, we gravitate towards a Venezuelan model for electoral governance.

In the interests of full disclosure, I Don Furniss was an unsuccessful candidate for TML Mayor in the 2018 election. I don't like wasting my time or TML \$ to request an independent audit, but in the interest of good governance, respect for our electorate and respect for the electoral process, I believe it is necessary to appear before you today.

I am going to lump my comments on the Registered Third Party Advertisers : Muskoka Lakes Association (MLA) and Friend of Muskoka (FOM) together, because their efforts were totally integrated, rather than repeat my concerns for each of these associations.

These two associations formed a collaborative joint campaign to formally endorse 10 candidates in Muskoka Lakes, one for each elected position. Based on their joint campaign they were 100% successful in having everyone of their candidates elected, and elected by huge margins. Their perspectives and actions on resort redevelopment projects, official plans, the planning process and OMB/LPAT litigation was developed by a select group of their Directors and conveyed to their membership and the electorate via their promotions, advertising, newsletters, website content, meetings and telephone calls. Without question the MLA and FOM directly influenced the outcome of the Oct 22, 2018 election.

My first concern is: Was the MLA and FOM participation as Registered Third Party Advertisers even legal under Sec 88.6 (4) 2 of the Ontario Municipal Elections Act (OMEA). While both of these associations might be incorporated for tax and liability issues, they do not sell goods and/or services to the general public and

should not be considered corporations under the OMEA. They in fact are truly associations, Muskoka cottager associations to be specific. Their primary source of revenue is from the sale of annual memberships to their members or from donations from the same groups. In return the MLA and FOM provide certain services to their membership related to controlling development and maintaining the environment, where their cottages are located – that being Muskoka.

I would also like to submit to the committee a legal opinion from the website of Aird Berlis, a very respected Ontario Law Firm with intimate knowledge in Ontario Municipal matters: I will call it Exhibit #1 and the kosher portions are high lited, “Cottager’s associations and taxpayer associations CANNOT register to be registered third parties, but their members can if they are normally resident in Ontario”. There were no individuals registered as third parties in TML.

My second concern on the filings for the MLA is that there is no income noted only expenses. While both FOM and the MLA list bank charges, are these allocated expenses or did both associations open individual bank accounts for registered third party advertising? Where did the money come from to pay the expenses. The MLA should also have another separate bank account as a registered third party advertiser in Gravenhurst as well. What amounts were contributed by whom, into the respective accounts is unknown and how joint expenses were allocated between both FOM and the MLA is also unknown.

My Third concern is the violation of Sec 88.5 (2) 2 of the OMEA, concerning the declaration of the name, business address and phone number on all advertising material and signage – also see page 6 of the 2018 Guide for third party advertisers. Several joint signs were posted through out the TML with only the logo of these organization. They displayed no addresses, phone numbers or contacts. I submit to you what I call Exhibit 2, as a representative example of an advertisement with no address, telephone number or contact names.

My fourth concern is the amounts declared for expenses:

Neither association made any declaration for signage and in fact joint signage for “No Waterfront Subdivisions” was widely placed through out the TML. Six were placed on a half km stretch of road near my home in advance of the permitted date for signage.

It is also believed that these associations organized multiple robo calls to all the electorate in the 2 or 3 weeks before the election promoting their slate of candidates. One of these calls used the voice of a famous Canadian Actor. I do not see this significant market value expense reflected in Form 8 declarations.

A fifth area of concern is the collaborative or perhaps coerced co operation of other associations. I will elaborate on one only – Safe Quiet Lakes, whose Mission Statement is: “ To make Muskoka Lakes safer and quieter to ensure sustainable enjoyment of a treasured shared resource” . Their Fall Newsletter was issued to their thousands of readers, on Oct 8<sup>th</sup>, a few days before voting started. A statement saying SQL does not endorse specific candidates, but is urging their members to vote for candidates recommended by the MLA & FOM, because they are aligned with SQL Values. I don't have to read between the lines to understand which candidates SQL has endorsed. I look at the photo in the SQL newsletter, which I submit to the committee as Exhibit 3, where the MLA and FOM organize and endorse the mass conversion of several hundred boats at a single location in Wallace Bay at a set time with music blaring, horns honking, air horns blasting and loud hailers screaming. This is exactly the type of behaviour SQL **does not** ,does not endorse in their mission statement. What Gives? The same photo appears on a FOM website and newsletter. Was there coercive pressure exerted by selective Directors of FOM and MLA on the SQL Executive? Was the continuation of a \$5,000 Platinum Sponsorship at risk? Did the MLA of FOM provide additional funds to SQL for this endorsement? Did the MLA provide a Platinum Sponsorship contribution for 2019? This Audit Committee needs to ensure the public has confidence in the efficacy of the process and that laws were not violated.

The OMEA is also very clear that expenses need to be declared at fair market value and that value needs to be declared as an arms length transaction. I believe that some of these expenditures i.e. buttons, hand delivery of flyers in the GTA , use of SQL Newsletters (see Exhibit 3) etc. have not been declared, or not declared at market value or are off the book donations from individuals or organizations.

It is also my belief that the fair market value of the goods and services purchased by, or donated to both of these organizations are significantly above the \$11,800

collectively permitted under the OMEA. The FOM and MLA are well funded, well organized organizations. Their activities and actions greatly influenced the outcome of the 2018 election in Muskoka Lakes. Their strategies were under the control of a group of Directors and select group of key supporters. These individuals are skilled professionals with legal business and planning expertise not a group of inexperienced unorganized citizens. They knew how the process worked and the rules and laws that were applicable.

The previous audit committee recommended that a financial audit be conducted on 6 candidates who ran as a slate in the 2014 election, I believe Chair Panizza and member Pajunen will recollect that one candidate had purchased a website domain name and totally funded the development and maintenance of a website and also controlled all content that was posted. That candidate declared 100% of all costs on his filing. However, because other candidates associated with a slate of candidates were mentioned and their biographies included on this website, the committee deemed it to be a shared expense. I believe the same logic should apply with these registered third party advertisers and supporting organizations. If it is determined that the MLA and FOM are not eligible as third party advertisers; using the logic of the last Audit Committee an audit should be conducted and all expenses divided into 12 tranches. Each elected and endorsed councillor should have one tranche added to their election expenses and the mayor who ran in all 3 wards should expense 3 tranches as part of his election expenses.

I want to strongly stress the importance of declaring all expenses on the basis of true third party arms length transactions. It was noted after the 2014 Audit Committee Review of one mayoral candidates expenses in TML, where an audit was not deemed necessary, that many signage and advertising costs were paid to a third party marketing company not the actual supplier. This company was a single employee sole proprietorship owned by the spouse of a future councillor closely allied with that mayoral candidate who came before the 2014 Audit Committee. I believe this provides a great potential for the massaging and laundering of expenses via fictitious invoicing. Let's respect the process and ensure all transactions are on the up and up.

I have one final request. Should this committee decide that audits are required and a judicial review necessary. I would respectfully request that it be done outside of Muskoka where expertise and experience in municipal election law might prove significantly stronger.

Thank you

### **Candidate Harding.**

I want to repeat my concerns that all expenses and the value of goods and services received by any candidate for elected office must be declared at the full value of a third party arms length transaction. In other words every person in this room should be paying the same price, just as we would if we buy a litre of gasoline from the same service station at the same time. OMEA is very prescriptive and descriptive on this point, to ensure that there is a level playing field for all candidates and that special off the book deals or discounts do not distort the value of any candidates expenditures. I also want to ensure that all goods and services are bon a fide actual expenses, not freebies or costs laundered via intermediate entities.

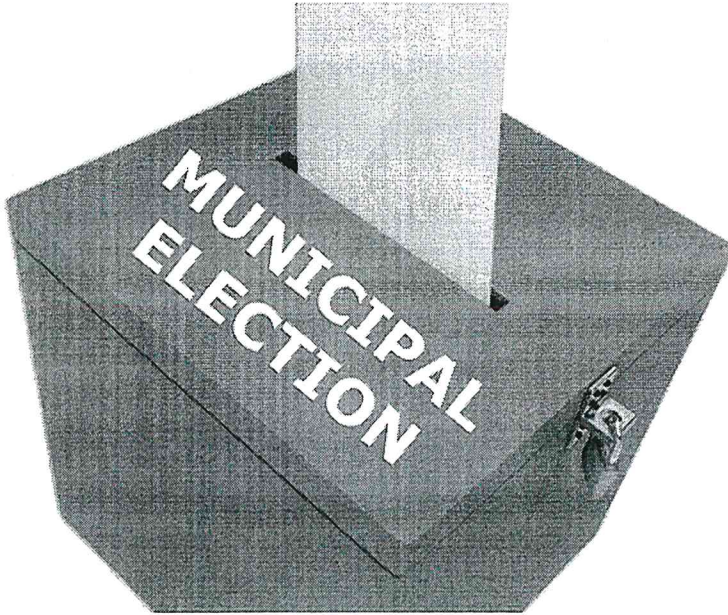
My concerns with the filing of Candidate Harding are as follows:

1. The candidate used a large electronic signboard located on Hwy 400 to advertise his campaign on 2 summer weekends in 2018. The display of any election signage on or adjacent to any Category 1 Hwy in the Province of Ontario is prohibited by the MOT. See Exhibit 1. The signage was also located outside the municipal boundaries of the Township of Muskoka Lakes. However, I believe the value declared seems to be reasonable
2. While I personally did not see it, I have been told by other individuals that an aerial advertising banner “Elect Phil Harding for Mayor” or some similar wording was seen around Lake Rosseau during the summer of 2018 . The going arms length fair market value for such advertising is \$2000 for 15 minutes and \$5,000 for 3 hours (from take off to landing). I did not see this in the Candidates expenditures or as contributions from individuals.

3. The candidate used steel T profile fence posts to support almost all free standing non billboard election signs of various sizes. I see no indication that the fair market arms length value of this hardware was recorded in the candidates election expenses. Based on a verbal quotation for an 8 foot steel T profile post in quantities of 100. The discounted fair market value is about \$7 per stake. Based on a very conservative minimum of 200 signs at 2 stakes per sign this represents a value of at least \$2800 plus HST. If these items alone are included in fair market value expenses, I believe candidate Harding would be significantly above the maximum allowable expenditure for a mayoral candidate in the Township of Muskoka Lakes.
4. While not a concern specific to Candidate Harding. I note that at least 2 candidates for elected office in TML declared significant travel expenses at the official CRA mileage allowance rates of \$0.49 per kilometer. My question for the Committee is: Should travel expenses be included in the election expenses of candidates and if so, is the CRA rate appropriate?

Thank you

## Important Changes to the Municipal Elections Act, 1996



### Divisional Court Confirms Expropriation Claimants Not Liable for Interest and Costs Consequent to Litigation

By Ajay Gajaria, David P. Neilson and Robert Hines

May 16, 2019

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### M&A and Cannabis-Related Mergers: A New Era of Mergers and Acquisitions

By Martin L. Lemay

May 16, 2019

[Read More](#)

All across Ontario, municipal elections are just over six months away. On April 1, the most recent amendments that will impact the *Municipal Elections Act, 1996* came into force.

There are a **lot of changes to the rules** for this election, but below are some of the most important ones to note.

#### Important Dates

Nominations open May 1, 2018 and are open until July 27, 2018 at 2:00 p.m. Twenty-five signatures are required with nominations (signatures are not required for those running in municipalities with less than 4,000 electors or for those running for school board trustee). Election Day is October 22, 2018.

#### Contribution Rules

This is one of the most important changes to note! Only individuals who are normally resident in Ontario can contribute to a candidate, as can the candidate and the candidate's spouse. **Absolutely no corporate or union donations can be made to a candidate.**

#### Registered Third Party and Advertising

There is a new provision for a "Registered Third Party" which can register to advertise in support or opposition to a candidate or a question that will be on the ballot. An individual normally resident in Ontario, a corporation that normally carries on business in Ontario and a trade union that holds bargaining rights for employees in Ontario can make such registration. And only those persons/entities and the spouse of an individual third party registrant can contribute to a registered third party. **Cottagers' associations and taxpayers' associations CANNOT register to be registered third parties, but their individual members can (if they are normally resident in Ontario).**

There are also strict rules about the advertising and broadcasting that can take place through registered third parties. These registered third parties will have to file financial statements and are subject to requests for compliance audits, just like candidates. Municipal clerks will also have to review financial statements (once they are filed after the election) to determine if individual contributors (to candidates and registered third parties) appear to have violated the contribution rules. Municipal clerks will also have to submit reports of those apparent violations to the compliance audit committee and the committee will decide whether or not to commence legal proceedings against the candidate.

### **Role of Compliance Audit Committees**

There are significant changes as well to the role of compliance audit committees and how they will do their work (i.e. they will be able to deliberate in private and they will have to give brief written reasons for their decisions). Many municipalities are currently in the process of recruiting members for the committees for the next term.

### **Make Sure You Are Compliant!**

If you would like clarification on any of the new rules surrounding municipal elections, please don't hesitate to contact Aird & Berlis LLP.

[Publications | Article](#)

## **Bill 108: The Province Introduces Ministerial Oversight in Advanced School Board Expropriation Approvals**

By Ajay Galaria

May 10, 2019

[Read More](#)

## **Areas of Expertise**

Municipal & Land Use Planning



# Stop Residential Subdivisions on the Waterfront

Developers are trying to build single home and multilevel residential subdivisions at multiple waterfront locations across Muskoka.

Over 100 commercial properties in Muskoka could be turned into residential subdivisions.

Our elected officials must ensure resorts are legitimately commercial and fit with the natural beauty of Muskoka.

**Vote for the TML candidates who know the issues and who will fight to preserve the character of Muskoka.**

## Why vote?

- To protect this unique environment
- To stop residential subdivisions on the waterfront
- To preserve Muskoka's natural character for future generations
- To ensure responsible and sustainable development and economic growth

## Who can vote?

- A Muskoka property owner AND their spouse
- A person who rents property in Muskoka on Election Day and their spouse
- You can vote in each municipality in Ontario where you own/rent property
- Only Canadian citizens, 18+ years old

## How to vote

Voting this year is by telephone or online only. Help is available at your municipal office.

You should have received your Voter Letter. If not, call the Township Office

**1 705 765-3156**

or send an email to

**[vote@muskokalakes.ca](mailto:vote@muskokalakes.ca)**

You can vote from

**Oct. 12 to 22**

Mayor  
Phil Harding



Ward A Councillors  
Donelda Hayes  
Glenn Zavitz



Ward A District Councillor  
Ruth Nishikawa



Ward B Councillors  
Susan Mazan  
Gord Roberts



Ward B District Councillor  
Allen Edwards



Ward C Councillors  
Peter Kelley  
Barb Bridgeman



Ward C District Councillor  
Frank Jaglowitz



**[savemuskoka.ca](http://savemuskoka.ca)**



**Friends of Muskoka**  
Protecting our lakes from harm.



**MLA**  
Muskoka Lakes Association  
Preserving the Beauty of Our Lakes

Friends of Muskoka ([fo@muskokalakes.ca](mailto:fo@muskokalakes.ca)) and the Muskoka Lakes Association ([fo@mia.on.ca](mailto:fo@mia.on.ca)) are registered third party advertisers in the Township of Muskoka Lakes



**OUR MISSION: Make the Muskoka lakes safer and quieter to ensure the sustainable enjoyment of a treasured shared resource**

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## Fall 2018 - Newsletter

### Getting the Word Out

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### Chair's Message

One of the pressing issues across our region is resort and subdivision development pressures on our lakefronts. Safe Quiet Lakes encourages all eligible voters to participate in this very important election and vote to ensure that we have elected officials in municipal government who will protect our waterfronts, lakes and the environment.

Our "Your Lakes Your Views" survey report published by ERIN Research last summer found that for Muskoka lake users, "Boat traffic has an impressively direct impact on perceived quality of experience." More than half of the respondents feel that the Muskoka lakes and waterways are busier and noisier than four years ago and that the impact of wakes has become more of an issue.

Safe Quiet Lakes is very active presenting these survey results to governments, policy makers and thought leaders. We are committed to working with the lake community to achieve positive change.

Our activities are not possible without financial support from individuals, lake associations, municipalities and our sponsors. Please support our efforts. For more information and to make your gift online please click [safequiet.ca/donate](https://safequiet.ca/donate).

As always, we are very interested in your comments and feedback. Your interest, support and participation are so very important to us. I can be reached at [chair@safequiet.ca](mailto:chair@safequiet.ca).

**Frances Carmichael**  
*Chair, Safe Quiet Lakes*

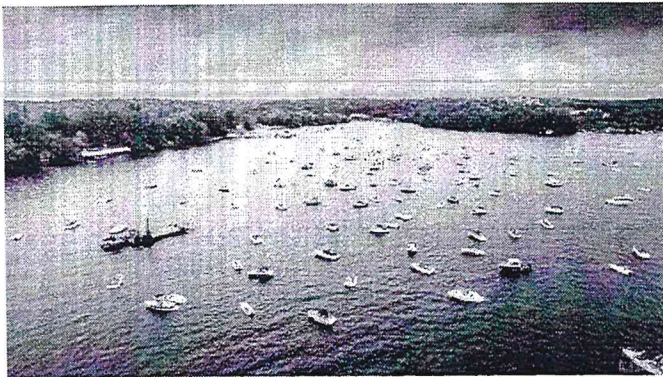
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## Municipal election day is October 22 - Vote for candidates who endorse sustainable development of our lakes.

Election day is Monday, October 22, 2018. Voting will be done by internet or telephone and, depending on your municipality, can be done over the 10 to 12 days preceding Election Day. Please be sure that you are on the voters list. You will find more information on how to vote on your municipal website .

Carefully considered sustainable development policies are required to ensure long-term, safe, enjoyable use of our lakes. Safe Quiet Lakes believes that Recreational Carrying Capacity (RCC) and Boating Impact Studies (BIS) are effective planning tools to objectively quantify sustainable development and act as a brake on potential over development. We believe that candidates should support the adoption of these tools as one element of policy making and these tools should be embedded in official plans. Ask your candidates for their position on this important issue and let them know how you feel about sustainable development of our lakes.

The promotion of Recreational Carrying Capacity as a planning tool is gaining traction as shown in this recent article in **Metroland Media**.



*These issues are very real in Minett and Wallace Bay where boat traffic has already been shown to be over capacity on some days. Here's a photo of the Sound the Alarm boat rally in August. More coverage is on the Friends of Muskoka Website .*

## Links to more information about the Candidates

*During this fall's municipal elections, Safe Quiet Lakes will encourage debate on sustainable development policies that sustain safe and responsible boating. However we will not be endorsing specific candidates.*

Safe Quiet Lakes is urging you to vote for candidates that support sustainable development. The local lake associations including the MLA and the Friends of Muskoka have recommended candidates that are aligned with their and our values. Some other associations such as the LRNA and the MRA have

posted answers from candidates on specific questions. Many of the candidates have their own websites where they outline their policies and platforms. Here's a selection of links to local association websites. We hope you find it helpful.

- Friends of Muskoka
- Muskoka Lakes Association
- Muskoka Ratepayers Association
- Georgian Bay Association
- Lake Of Bays
- Lake Joseph North Association
- Lake Rosseau North Association

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## Expanding our Reach

*Over the past seven years Safe Quiet Lakes has been building support from individuals and organizations such as yourself across our community.*

Many thanks to the many lake associations, marinas and townships who are using our tools to reach their community: posting the boaters' code at docks, in their newsletters and on their website. Working together, we can effect change.

Thanks also to the many people who stopped by at our booth at the boat shows around the region. Congratulations to the winner of our Summer Draw. Thank you to **CatalystGolf.com** for sponsoring the prize.

Let's keep the conversation going. Please share this newsletter with your friends and neighbours and encourage them to **signup** for our list.

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## About Safe Quiet Lakes

Safe Quiet Lakes is a not-for-profit community group of boaters that promotes:

- Safe, respectful boating and the adoption of the SQL boaters' code – Boaters Always Care.
- The preservation of the community culture in the Muskoka region through respectful and safe use of our shared waterways.



For more information, to make a donation or to get involved, please visit [safequiet.ca](http://safequiet.ca).

### Platinum Sponsors:



[ABOUT US](#) [YOUR ROLE](#) [INFORMATION & RESOURCES](#) [DONATE](#) [CONTACT US](#)



MINISTRY OF TRANSPORTATION **Corridor  
Signing Policy**

## 7. Temporary Signs

In this chapter:

1. Temporary Signs Subject To Approval Of The Ministry
2. Types Of Temporary Signs
3. Requirements Regarding Temporary Signs
4. Maximum Of Two Temporary Signs On One Property
5. Temporary Signs Shall Face Traffic
6. Separate Approval Required In Each MTO Area Office
7. Certain Signs Prohibited If Event Advertised Operated For Private Profit
8. Letter Of Approval May Be Withdrawn If Sign Placed In Contravention Of Instructions
9. If Event Advertised Is Postponed Expiry Date May Be Extended
10. Election Signs
11. Canadian Forces Convoy Route Markers
12. Snowmobile Crossing Sign
13. Development/Real Estate/Construction Signs
14. Portable Signs (Mobile)

## 10. Election Signs

An election sign must not be placed upon or adjacent to the right-of-way of a Class 1 Freeway or Class 2 Staged Freeway.

Election signs may be erected on the right-of-way or adjacent to a Class 2 undivided Staged Freeway, a Class 3 Special Controlled Access highway, a Class 4 Major highway or Class 5 Minor highway after an official election has been called.

Signs up to 0.7 m<sup>2</sup> (8 ft<sup>2</sup>) in size must be placed a minimum of 4m (12 ft.) from edge of pavement. Signs over 0.7 m<sup>2</sup> (8 ft<sup>2</sup>) and up to 3.7 m<sup>2</sup> (40 ft<sup>2</sup>) must be placed at the outer limit of the highway right-of-way.

Election signs may be placed on the right-of-way of a highway other than a Class 1 Freeway and Class 2 divided Staged Freeway, but must be placed at least 4m (12 ft.) from edge of pavement.

An election sign must not be affixed to a permanent or an official sign or to the guide rail or other highway structure or facility and must not be placed where it may interfere with visibility, an official sign, traffic signal, or other safety device.

Portable read-o-graph sign trailers are prohibited on the right-of-way of a highway. Such read-o-graph sign trailers may be utilized providing they are erected on private property and meet the requirements of the Ministry for portable read-o-graph signing.

Permits or Letters of Approval for any election signs erected under this policy are not required.

Candidate committees, or workers shall be allowed three (3) working days after election day in order to remove candidate advertising (election signs) from the Ministry right-of-way and adjacent properties.