

**EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 7, 2016**

Item 9, Report No. 26, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on June 7, 2016.

**9 REGULATION OF LOBBYING ACTIVITIES**

**The Committee of the Whole (Working Session) recommends:**

- 1) That the recommendation contained in the following report of the City Clerk, dated June 1, 2016, be approved; and**
- 2) That Communication C2 from Ms. Emma Barron, Planning Coordinator, Policy & Government Relations, Building Industry and Land Development Association, dated May 26, 2016, be received.**

**Recommendation**

The City Clerk, in consultation with the Deputy City Manager, Legal & Human Resources, and Chief Financial Officer and City Treasurer, recommends:

1. That a by-law substantially in the form of Attachment #1 be enacted to establish a voluntary Lobbyist Registry for the City of Vaughan;
2. That the final by-law for a voluntary Lobbyist Registry be in force on January 1, 2017;
3. That staff be directed to provide options, and a recommendation, for the retention of a Lobbyist Registrar and that considerations for the retention of a Lobbyist Registrar form part of the budget proposals for 2017; and,
4. That specific mechanisms for the establishment of a mandatory Lobbyist Registry be developed for implementation in 2018.

**Contribution to Sustainability**

A strong accountability and transparency framework contributes to effective governance by ensuring that the City is accountable to the public for its actions, and by clearly defining the manner in which its governance practices will be made transparent to the public.

**Economic Impact**

The economic impact of a voluntary lobbyist registry is limited. Some funds for promotional materials will be required. The online portal of a Lobbyist Registry may require some funding should any outside expertise be required. These resources will be requested through the established budgetary process. Aside from these specific requirements most of the resources required can be accommodated through existing budgets.

A mandatory lobbyist registry will require additional resources, primarily through the appointment of a Lobbyist Registrar and the associated cost for an office and staffing. The options available for appointing a Lobbyist Registrar and costs will be reviewed through a future report regarding the appointment of a Lobbyist Registrar for a mandatory Lobbyist registry and the City's budget process.

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#### **Communications Plan**

This report was made available on the City's website. A public information/feedback session was held on May 4, 2016 to solicit feedback on the proposed lobbyist registry. This meeting was promoted through the City's enewsletter, electronic sign boards, social media, Vaughan TV and electronic display boards at the community centres. There is a dedicated Lobbyist Registry webpage on the City's website and email address.

Implementation of a Lobbyist Registry will require that the Registry be promoted through the media and City channels, including the website. Information sessions will be used to educate potential lobbyists as to their roles and responsibilities and to address any questions they may have. A detailed communications plan, in consultation with Corporate Communications, will be developed to promote the Registry.

#### **Purpose**

The purpose of this report is to provide a framework for the establishment of a voluntary Lobbyist Registry. The proposed Registry will be voluntary in nature to allow for a one year introductory and education period leading to a mandatory Lobbyist Registry.

#### **Background - Analysis and Options**

##### Synopsis:

*Lobbying conducted by interested parties is in many respects a positive contributor to debate and is an important part of the governing process. The lobbying of Members of Council and staff on municipal issues can enhance the deliberative process by providing the perspective of stakeholders that might otherwise be lost. Greater transparency of that process, however, will enhance the public's perception that decisions are being made in an accountable way.*

##### Statutory Authority to Establish Lobbyist Registry

The *Municipal Act, 2001* authorizes municipalities to establish lobbyist registries and appoint lobbyist registrars. The City of Toronto is obliged to establish a registry, but it is optional for other municipalities.

In particular, Section 223.9(1) of the *Municipal Act* allows for a municipality "to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders." Sections 9, 10 and 11 (General Municipal Powers) provide flexibility to municipalities to adopt other approaches to regulate lobbying.

Section 223.9(2) outlines a list of activities that a municipality might undertake in implementing a lobbyist registry. The list is not mandatory and effectively sets out options available to the municipality. Any, or all, of the available options can be considered or implemented by the municipality. The *Act* gives specific authority to the municipality to "provide for a system of registration of persons who lobby public office holders and to do the following things:

1. Define "lobby".
2. Require persons who lobby public office holders to file returns and give information to the municipality.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public office holders and specify the time within which the returns must be filed and the information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.

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6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98.”

In addition to the above listed tools, the *Municipal Act* also addresses:

- Public access to a Lobbyist Registry [S223.9(3)]
- Prohibition on contingency fees [S.223.10]
- Registrar for lobbying matters, including Powers and Duties, Delegation [S.223.11]
- Inquiry by registrar [S.223.12]

#### Considerations for the Regulation of Lobbying Activities:

Before the regulation of lobbying activities can be implemented, the various activities and roles regulated by a lobbyist registry must be defined. To do so, the following must be considered:

- Mandatory or Voluntary registry?
- What is communication with a public office holder?
- What types of communications will be considered lobbying?
- Who will be considered a lobbyist, and what types of lobbyists are there?
- Who is a public office holder?
- Who and what should be exempt from the lobbyist registry?

Each of these elements of a lobbyist registry will be reviewed in greater detail below.

#### Implementation of a Lobbyist Registry

The *Municipal Act* provides for registrations of lobbyists, their conditions of registration and their continued or renewed registrations. The *Act* does not specify if those registrations must be mandatory or voluntary. Through the various reports and consultation on the proposed lobbyist registry it has been determined that the preferred implementation will include a one-year voluntary registry, followed by a mandatory registry.

Voluntary registrations will be used during a phase-in of a mandatory lobbyist registry. The one-year voluntary period will be used for educational and training purposes, to assist lobbyists with learning about the lobbyist registry. It will also serve as a test period of any new technological solutions being implemented for the first time, such as an online portal for the registry. New workflows for staff will be tested and refined in the preview period to ensure a smoother implementation of a mandatory registry.

It is proposed that at the conclusion of the one-year voluntary Registry a mandatory Lobbyist Registry be implemented. The proposed timeline is that the voluntary Registry will come into effect on January 1, 2017, followed by a mandatory Registry coming into effect of January 1, 2018.

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#### Registrations

Mandatory registrations have been implemented in the cities of Toronto, Ottawa, Hamilton and Brampton. In Toronto and Hamilton, the registration must occur prior to the lobbying activity, while in Ottawa and Brampton, the registration can occur after the lobbying activity. In the case of the City of Ottawa, registration can occur up to 15 business days after the lobbying activity.

Registrations that occur after the lobbying activity recognize the potential for lobbying activities to occur outside of formal, pre-set meetings. For example, a public office holder at a community event may have an unplanned interaction with a lobbyist. Allowing for after-the-fact registrations allows for the registry to record these activities while accepting that not all lobbying activities occur in a pre-planned manner. It is recommended that Vaughan lobbyist registry permit for the registration to occur up to five business days after the communication takes place.

Lobbyist registration typically involves providing some basic information about the lobbyist, the subject matter they are lobbying on and the closure of the matter which is the subject of the lobbying activity. It is recommended that the lobbyist registry by-law require the following information be included in any registration:

- **Registration as a Lobbyist**
  - Provide name, title and address
  - Type of lobbyist (consultant, in-house or voluntary unpaid)
  - Name of individual, client or organization they are lobbying on behalf of
- **Subject Matter Registration**
  - Each matter they will lobby on
  - Description of the issue being lobbied
  - Date on which the lobbying will start and finish
  - Names of public office holders being lobbied
- **Closure of the Subject Matter Registration**
  - The lobbyist must close the subject matter registration no more than 30 days after the completion of the lobbying activity so that it is known when the lobbying activity ends

#### Communication

The basic definition of communication is that it means any form of expressive contact, including oral, written or electronic communication or any other meaningful dialogue that falls within the definition of lobbying. This represents the basic definition of communication and can form the basis of Vaughan's definition, as it adequately covers the common understanding of what communication with public officials consists of.

In addition to that basic definition, both the Ottawa and Brampton lobbyist registry by-laws add that communication can occur in either a formal or an informal setting. This is an important addition as it clarifies, for the public office holders subject to the lobbyist registry, that communication can take place both in formal settings (i.e. meetings at their office) and informal settings (i.e. social events, unplanned meetings). This addition to the basic definition is important to demonstrate the transparency and accountability of the registry, as well as creating confidence in the overall lobbyist registry.

The definition of "communication", as included in the draft lobbyist registry by-law is:

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*“means any form of expressive contact including, but not limited to, a formal meeting, email, or other electronic messaging, facsimile transmission, letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or in an informal setting.”*

#### Lobbying

The definition of lobbying is another key component to any form of lobbyist regulation. The Brampton and Ottawa definitions of lobbying are straightforward and concise. The City of Brampton lobby definition is “any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence and legislative action.” The Ottawa by-law furthers this definition by including a list of specific activities, including “development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a Ward Councillor or staff member acting under delegated authority”.

Both the Toronto and Hamilton registries go well beyond the Brampton and Ottawa definitions by including a more detailed list of activities. The list includes lobbying activities related to the development of City policy, purchasing of goods and services, approval of permits and licenses, financial contributions, and the transfer of the City’s interest or asset of any business, enterprise or institution. Hamilton includes lobbying activities related to the hiring, disciplining or terminating of any member of the City’s senior management team.

The definition of “lobby”, as included in the draft lobbyist registry by-law is:

*“any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence any legislative action, including, but not exclusively, development, introduction, passage, defeat, amendment or repeal of a bylaw, motion, resolution or the outcome of a decision on any matter before Council or a Committee of Council, or staff member acting under delegated authority.”*

#### Lobbyists

There is substantial agreement in the four existing registries as to the type of lobbyists regulated, and their definitions. Based on the existing registries, the following definitions have been included in the draft lobbyist registry by-law:

- **Consultant Lobbyist** - an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). If the consultant lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
- **In-House Lobbyist** - an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization. If the in-house lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
- **Voluntary Unpaid Lobbyist** - an individual who lobbies without payment on behalf of an individual, business or other organization for the benefit of the interests of the individual, business or other organization. If the voluntary unpaid lobbyist arranges a meeting between a public office holder and a third party, that is lobbying.

The distinction between the different types of lobbyists will be important when determining what lobbying activities may be exempt from the reporting requirements of the registry.

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#### Public Office Holder

The definition of Public Office Holder is another key component of lobbying regulation. The definition of Public Office Holder must be carefully considered as it impacts the breadth and scope of a lobbyist registry. The definition also plays a role in creating confidence in the registry and contributing to the public's perception of its utility.

For the purposes of the Vaughan lobbyist registry, the following persons are recommended to be included within the definition of Public Office Holder

1. A member of Council and any person on his or her staff
2. An employee of the City who is a member of the City's Corporate Management Team
3. Employees in management positions that can influence programs and services
4. Employees who are not in management positions but have direct contact with members of Council and whose work includes providing advice to Council
  - including advice on legal, financial, personnel, policy advice
  - including employees who provide planning, building, licensing, inspection and purchasing services
5. Employees who have direct contact with Council in the operation of Council and Committees
6. Employees who work on municipal elections in a supervising role
7. An accountability officer appointed under the *Municipal Act, 2001*, including, but not limited to:
  - Auditor General
  - Integrity Commissioner
  - Lobbyist Registrar
  - Ombudsman
  - Closed Meeting Investigator

#### Lobbyist Exemptions

Defining lobbyists and defining who is not to be considered a lobbyist will provide clarity to stakeholders. Within each of the existing lobbyist registries in Ontario the following persons have been exempted in the lobbying regulation by-laws examined, and are recommended to be exempt in Vaughan's regulation of lobbying activities:

- People acting in their official capacity for another government or public sector, including:
  - Members of the Senate or House of Commons of Canada, legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of those members
  - Members of a First Nation council as defined in the *Indian Act*, or persons on the staff of those members
  - Employees or consultants retained by another level of government, First Nation, crown corporation or federal/provincial public agency
  - A member of a Council or statutory body
- Officials and employees of the City and other municipal bodies, including
  - Public office holders
  - Officers, directors or employees of a local board of the City
  - A member of an advisory committee appointed by Council
- Persons communicating on behalf of the local school boards
- Persons communicating on behalf of healthcare institutions

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#### Lobbying Exemptions

Equally as important as having exemptions for specific lobbyists, exemptions for specific lobbying activities are important. What is not to be considered lobbying is important to establish and is a typical component of existing registries. The following list of activities are recommended for exemption:

- Communication that is a matter of public record or occurs during a meeting of Council, Local Board or Committee of Council;
- Communication that occurs as part of a public process, such as a public meeting, open house or media event held or sponsored by the City or public office holder;
- Communication restricted to a request for information;
- Communication restricted to compliments or complaints about a service or program;
- Communication with a public office holder by an individual on behalf of an individual, business or organization regarding:
  - Enforcement of an Act or by-law
  - Implementation or administration of any policy or program
  - A personal matter
- Communication by an applicant, interested party or their representatives with respect to an application for service, permit or license, planning approval, permission or other approval, where the communication:
  - is restricted to providing general information on an application;
  - is part of the normal course of an approval process;
  - is in respect of planning and development applications, is with an employee who has a role in the processing of the planning application;
- Submitting a bid proposal as part of a procurement process;
- Communication with a public office holder in response to a written request from the public office holder;
- Communication to a member of Council by a constituent on a general neighbourhood or public policy issue; and
- Communication is by a voluntary unpaid lobbyist on behalf of a not-for-profit group or organization

#### Lobbyist Registrar

Section 223.11(1) of the *Municipal Act* permits a municipality to appoint a Lobbyist Registrar; more specifically, it states that a municipality is authorized “to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry”. No further guidance or direction is given by the *Act* with respect to the type of person who can be appointed or their necessary background, except that the Registrar is not required to be an employee of the municipality.

Generally, the responsibilities of the Registrar include:

- Overseeing the administration of the lobbyist registration system
- Providing advice, opinions and interpretations regarding the lobbyist registry
- Conducting investigations or inquiries to determine if the lobbyist registry by-law has been contravened
- Suspending or revoking a registration
- Enforcing the lobbyist registry by-law

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The Lobbyist Registrar may be given the authority to conduct inquiries, impose sanctions and where necessary refer inquiries to the appropriate authorities for investigation. Given that it is recommended that there be a one-year voluntary lobbyist registry, there will be no need to conduct investigations or issue sanctions. The Lobbyist Registrar can be a person who is knowledgeable with lobbyist registries and will take on the role of an educator, promoter and administrator. For those reasons, it is recommended that the City Clerk or designate be appointed as the Lobbyist Registrar only during the voluntary registry period.

Once the registry moves from a voluntary one to a mandatory one, a Lobbyist Registrar should have the appropriate background, skills and experience to undertake activities such as conducting inquiries, imposing sanctions, and where necessary referring inquiries to the appropriate authorities. Recognizing these needs, the Cities of Ottawa and Hamilton appointed their Integrity Commissioners also as their Lobbyist Registrars. This is an option that can be further explored to determine if this is a suitable solution for the City of Vaughan, along with other potential options, including the appointment of another third party or staff member as the Lobbyist Registrar.

There are also budget implications with appointing a lobbyist registrar with the appropriate experience. It is recommended that staff continue to evaluate the options and report to Council on those options and budget impacts through the 2017 budget process.

#### Inquiries, Sanctions and Prosecutions

Section 223.12(1) of the *Municipal Act* permits the Lobbyist Registrar to conduct an inquiry when requested to do so by Council, a member of Council or a member of the public. The inquiry would be related to compliance with the requirements of the lobbyist registry, or the lobbyist's Code of Conduct. Inquiries must be conducted confidentially.

Section 223.9(1) of the *Municipal Act* allows for a municipality, in part, to "Impose conditions for registration, continued registration or a renewal of registration" and to "Refuse to register a person, and suspend or revoke a registration". Through these tools, a municipality may develop their own sanctions or penalties when the registry by-law is contravened.

Where the Lobbyist Registrar is conducting an inquiry, and the Registrar "determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code", the Registrar must immediately refer the matter to the appropriate authority. The inquiry must also be suspended until any police investigation and charge is disposed of. The suspension of the inquiry must be reported to Council. This is a requirement of the *Municipal Act* and not subject to any municipal requirements.

The Registrar may report inquiry findings back to Council and any report received by Council must be made publically available. All four Ontario municipalities with a lobbyist registry by-law have assigned the powers for inquiry to their Lobbyist Registrar.

Given that a voluntary lobbyist registry is being recommended for a one-year period, it would be inappropriate to include any inquiry or sanction powers for the lobbyist registry. Implementation of a mandatory registry will include these tools for the Lobbyist Registrar.

#### Other Tools

The *Municipal Act* contains other tools not already discussed that may be implemented through a lobbyist registry by-law. These tools may add to the accountability and transparency of the lobbyist registry, and help build trust that the registry is effective in enhancing those traits. These tools are:



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- Prohibiting Lobbyists from receiving payment that is contingent upon the successful outcome of any lobbying activity
- Prohibiting former public office holders from lobbying current public office holders for a specified period of time

These tools have been implemented, to varying degrees in the existing lobbying regulation by-laws in Ontario. It is recommended that both of these tools be included in the Vaughan Lobbyist Registry By-law. More specifically, the draft by-law includes the following:

- Lobbyists are prohibited from undertaking lobbying activities where payment to the lobbyist is, in whole or in part, contingent upon the successful outcome of lobbying activities
- No former public office holder shall engage in lobbying activities for a period of 12 months after ceasing to be a public office holder

#### Online Portal

An online portal is an important component for the lobbyist registry, both for lobbyists and for those who wish to review the lobbying activities that have been registered. The portal for lobbyists would, ideally, include the ability for lobbyists to set-up secure online accounts. Lobbyists would be required to provide information regarding the identity of the lobbyist, who they are lobbying for, the lobbying subject matter and which public office holders they are lobbying. The portal for the public would allow for the searching of lobbyists, their activities and the public office holders who are lobbied.

During the voluntary lobbyist registry, the operation of the online portal will be reviewed, refined and where necessary, alternative options will be explored. In consultation with the IT Department, various options for an online portal have been discussed. Depending on the option selected resources and additional funding may be required and they will be requested through the standard budget review process.

#### Lobbyist Code of Conduct

A draft Lobbying Code of Conduct was presented at the March 7, 2016 Committee of the Whole (Working Session). The draft Code has been updated based on the feedback received and is attached as Attachment #2. The Lobbyist Code of Conduct will be included in the Lobbyist Registry By-law.

#### Consultation

On May 4th an Information/Feedback meeting was held at City Hall. Approximately 12 people attended. There was a general consensus that a lobbyist registry was a positive step in enhancing the City's accountability and transparency framework. A summary of the feedback received is summarized below:

- Non-profit organizations should be subject to the lobbyist registry
- Public office holders, including Council and senior staff, should be subject to the reporting requirements of the lobbyist registry
- Existing codes of conduct for Council and staff should be updated to reflect requirements of the registry
- Too many exemptions being proposed
- Other levels of government should not be exempt
- Reporting needs to be timely
- Should allow for both pre- and post-lobbying registrations

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**Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report supports the goals established by Council in the Term of Council Service Excellence Strategy Map by facilitating the establishment of a lobbyist registry, a specified priority of Council in the Term of Council Service Excellence Strategy Map (2014-2018).

**Regional Implications**

None

**Conclusion**

A lobbyist registry is a tool that the *Municipal Act* provides to a municipality, as part of an overall accountability and transparency framework. This report identifies the components of a one-year voluntary Lobbyist Registry in anticipation of a mandatory Lobbyist Registry.

**Attachments**

1. Draft Voluntary Lobbyist Registry By-law
2. Lobbyists' Code of Conduct

**Report prepared by:**

Todd Coles, Manager of Development Services and  
Secretary Treasurer to Committee of Adjustment, ext. 8332

Jeffrey A. Abrams, City Clerk, ext. 8281

(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)



**BILD**

BUILDING A GREATER GTA  
Building Industry and Land  
Development Association

**C2.1**

C 2 COMMUNICATION
CW (WORKING SESSION) JUNE 1/16
ITEM - 9

May 26, 2016

Mayor Maurizio Bevilacqua and members of Council  
City of Vaughan  
2141 Major Mackenzie Drive  
Vaughan, ON  
L6A 1T1

Dear Mayor and members of Council,

**RE: BILD Comments – City of Vaughan Regulation of Lobbying Activities**

The Building Industry and Land Development Association (BILD) is in receipt of the staff report titled *Regulation of Lobbying Activities* that will be considered at the June 1<sup>st</sup> Committee of the Whole meeting. We would like to take this opportunity to provide comments on the development and implementation of a voluntary Lobbyist Registry in the City of Vaughan.

BILD members work in good faith with staff and Council at the City of Vaughan. We are supportive of the notion of transparency that the lobbyist registry aims to achieve, by providing an accessible record of persons who lobby public office holders outside of public forums like Council and Committee meetings or public open houses.

We appreciate that the City has proposed to implement a voluntary Registry beginning in January 2017, to allow for a one year introductory and education period. BILD hopes that this period will provide an opportunity for education, training and the ability to provide feedback on what aspects of the Registry are working well and what aspects need to be re-evaluated.

**Definition of Lobbying Activities**

BILD recommends that as part of the City’s communications plan, clear guidelines as to the definition of lobbying activity be developed and easily accessible. This should include the type of activity, the manner in which lobbying takes place (ie. e-mail, phone call, voice-mail message), and where the activity takes place should also be clearly articulated in a guideline. We appreciate that the City has provided additional clarification that both formal and informal communication is considered lobbying. In other municipalities, it is often unclear as to whether or not discussions with City officials and politicians off-site, in public/personal areas, on off-work hours and days, are considered "lobbying".

In addition, when considering the definition of "lobbying", BILD stresses that as part of a normal application approval process, our members interact with various staff levels as well as Council members, who act as the ultimate decision maker in some cases. BILD notes that our members are required to submit these applications under the *Planning Act* and *Ontario Building Code* as well as pay the associated fees to the City for their review. As such, we request that communication throughout the application review process, including communication with senior level staff and Council members to resolve complex issues, not be considered a lobbying effort and that these public office holders be considered as having a role in the processing of a planning application under the lobbying exemptions.

**Lobbyist Registry Administration**

We trust that the City will aim to establish a lobbyist registry that is simple to use and not an administrative burden on the end-user. Our members deal with a multitude of staff personnel from the various City departments on each of their development applications. BILD is pleased that the staff report recommends that lobbyist provide information based on subject matter. As such, we seek confirmation that it is not the intent of the City to have our members 'log' each point of contact with each staff person when addressing matters related

## C2.2

to their development applications. Any other means would simply result in an incredibly cumbersome and, most likely, ineffective registrar system.

The June 1<sup>st</sup> staff report suggests that anyone who wishes to lobby a Council Member or City employee outside of a public forum must register as a lobbyist within five days of lobbying commencing. In comparison to other municipal lobbyist registries, BILD acknowledges that five days provides a reasonable timeframe to log lobbyist-type activities. We also encourage the City to allow for as much administrative flexibility as possible in other scenarios as well, so as not to deter individuals from using the lobbyist registry system.

Finally, with respect to lobbyist registry administration, we are encouraged to see that the June 1<sup>st</sup> staff report references the development of an online process. Our hope is that this process will be a simple electronic process that is user-friendly. We appreciate that the intent of the voluntary lobbyist registry is to allow for the City test their electronic registry system prior to official roll-out to determine its usability. We hope that the City will establish user tutorials to avoid potential administrative challenges.

### **Timing of Lobbyist Registry Implementation**

BILD also recommends that once implementation of the lobbyist registry system begins, that it will apply to new applications or new subject matters that commence after the onset of implementation, and that members not be required to log their business dealings in a retroactive manner.

### **Professional Planners & the Lobbyist Registry**

Aside from residential and non-residential land developers and home builders, BILD's membership also consists of a large consultant group, many of which are Planners that are members of the Ontario Professional Planners Institute (OPPI). Also, many individuals who work for home builders and developer companies directly are professional planners, and are also members of OPPI.

In our member's conversations with OPPI, the issue has been raised as to whether a Planner acting as an independent professional bound by a Code of Conduct would be in any conflict registering as a "lobbyist." OPPI has been engaged in conversations around lobbyist registries in reaction to many of its members questioning how Planners' work fits within this regime. In reaction to a City of Toronto interpretation matter, in March 2008, OPPI issued a Member's Bulletin which clarified that a Planner communicating with the assigned planning staff at the city regarding an application does not constitute lobbying that requires registration.

As OPPI members are professionals offering independent objective opinions who practice in full compliance with the high ethical standards outlines in their Professional Code of Practice, it is our recommendation that Planners working for clients, and Planners who work directly for homebuilder and developer companies, should not technically be considered as lobbyists.

Once again, we thank you for the opportunity to submit comments on the staff report titled *Regulation of Lobbying Activities* that will be considered at the June 1<sup>st</sup> Committee of the Whole working session. As interested and effected stakeholders, we look forward to providing you with additional input as the voluntary period unfolds so that a system can be devised that works in the best interest of all those involved.

Sincerely,



Emma Barron, B.URPI, B.Sc(H)  
Planning Coordinator, Policy & Government Relations

cc: Danielle Chin, Senior Manager, Policy & Government Relations, BILD  
Michael Pozzebon, BILD York Chapter Chair  
Todd Coles, Manager of Development Services and Secretary Treasurer to Committee of Adjustment, City of Vaughan

**REGULATION OF LOBBYING ACTIVITIES**

**Recommendation**

The City Clerk, in consultation with the Deputy City Manager, Legal & Human Resources, and Chief Financial Officer and City Treasurer, recommends:

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4. That specific mechanisms for the establishment of a mandatory Lobbyist Registry be developed for implementation in 2018.

**Contribution to Sustainability**

A strong accountability and transparency framework contributes to effective governance by ensuring that the City is accountable to the public for its actions, and by clearly defining the manner in which its governance practices will be made transparent to the public.

**Economic Impact**

The economic impact of a voluntary lobbyist registry is limited. Some funds for promotional materials will be required. The online portal of a Lobbyist Registry may require some funding should any outside expertise be required. These resources will be requested through the established budgetary process. Aside from these specific requirements most of the resources required can be accommodated through existing budgets.

A mandatory lobbyist registry will require additional resources, primarily through the appointment of a Lobbyist Registrar and the associated cost for an office and staffing. The options available for appointing a Lobbyist Registrar and costs will be reviewed through a future report regarding the appointment of a Lobbyist Registrar for a mandatory Lobbyist registry and the City's budget process.

**Communications Plan**

This report was made available on the City's website. A public information/feedback session was held on May 4, 2016 to solicit feedback on the proposed lobbyist registry. This meeting was promoted through the City's e-newsletter, electronic sign boards, social media, Vaughan TV and electronic display boards at the community centres. There is a dedicated Lobbyist Registry webpage on the City's website and email address.

Implementation of a Lobbyist Registry will require that the Registry be promoted through the media and City channels, including the website. Information sessions will be used to educate potential lobbyists as to their roles and responsibilities and to address any questions they may have. A detailed communications plan, in consultation with Corporate Communications, will be developed to promote the Registry.

## **Purpose**

The purpose of this report is to provide a framework for the establishment of a voluntary Lobbyist Registry. The proposed Registry will be voluntary in nature to allow for a one year introductory and education period leading to a mandatory Lobbyist Registry.

## **Background - Analysis and Options**

### **Synopsis:**

*Lobbying conducted by interested parties is in many respects a positive contributor to debate and is an important part of the governing process. The lobbying of Members of Council and staff on municipal issues can enhance the deliberative process by providing the perspective of stakeholders that might otherwise be lost. Greater transparency of that process, however, will enhance the public's perception that decisions are being made in an accountable way.*

### **Statutory Authority to Establish Lobbyist Registry**

The *Municipal Act, 2001* authorizes municipalities to establish lobbyist registries and appoint lobbyist registrars. The City of Toronto is obliged to establish a registry, but it is optional for other municipalities.

In particular, Section 223.9(1) of the *Municipal Act* allows for a municipality "to establish and maintain a registry in which shall be kept such returns as may be required by the municipality that are filed by persons who lobby public office holders." Sections 9, 10 and 11 (General Municipal Powers) provide flexibility to municipalities to adopt other approaches to regulate lobbying.

Section 223.9(2) outlines a list of activities that a municipality might undertake in implementing a lobbyist registry. The list is not mandatory and effectively sets out options available to the municipality. Any, or all, of the available options can be considered or implemented by the municipality. The *Act* gives specific authority to the municipality to "provide for a system of registration of persons who lobby public office holders and to do the following things:

1. Define "lobby".
2. Require persons who lobby public office holders to file returns and give information to the municipality.
3. Specify the returns to be filed and the information to be given to the municipality by persons who lobby public office holders and specify the time within which the returns must be filed and the information provided.
4. Exempt persons from the requirement to file returns and provide information.
5. Specify activities with respect to which the requirement to file returns and provide information does not apply.
6. Establish a code of conduct for persons who lobby public office holders.
7. Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
8. Prohibit a person from lobbying public office holders without being registered.
9. Impose conditions for registration, continued registration or a renewal of registration.
10. Refuse to register a person, and suspend or revoke a registration.
11. Prohibit persons who lobby public office holders from receiving payment that is in whole or in part contingent on the successful outcome of any lobbying activities. 2006, c. 32, Sched. A, s. 98."

In addition to the above listed tools, the *Municipal Act* also addresses:

- Public access to a Lobbyist Registry [S.223.9(3)]
- Prohibition on contingency fees [S.223.10]
- Registrar for lobbying matters, including Powers and Duties, Delegation [S.223.11]
- Inquiry by registrar [S.223.12]

#### Considerations for the Regulation of Lobbying Activities:

Before the regulation of lobbying activities can be implemented, the various activities and roles regulated by a lobbyist registry must be defined. To do so, the following must be considered:

- Mandatory or Voluntary registry?
- What is communication with a public office holder?
- What types of communications will be considered lobbying?
- Who will be considered a lobbyist, and what types of lobbyists are there?
- Who is a public office holder?
- Who and what should be exempt from the lobbyist registry?

Each of these elements of a lobbyist registry will be reviewed in greater detail below.

#### Implementation of a Lobbyist Registry

The *Municipal Act* provides for registrations of lobbyists, their conditions of registration and their continued or renewed registrations. The *Act* does not specify if those registrations must be mandatory or voluntary. Through the various reports and consultation on the proposed lobbyist registry it has been determined that the preferred implementation will include a one-year voluntary registry, followed by a mandatory registry.

Voluntary registrations will be used during a phase-in of a mandatory lobbyist registry. The one-year voluntary period will be used for educational and training purposes, to assist lobbyists with learning about the lobbyist registry. It will also serve as a test period of any new technological solutions being implemented for the first time, such as an online portal for the registry. New workflows for staff will be tested and refined in the preview period to ensure a smoother implementation of a mandatory registry.

It is proposed that at the conclusion of the one-year voluntary Registry a mandatory Lobbyist Registry be implemented. The proposed timeline is that the voluntary Registry will come into effect on January 1, 2017, followed by a mandatory Registry coming into effect of January 1, 2018.

#### Registrations

Mandatory registrations have been implemented in the cities of Toronto, Ottawa, Hamilton and Brampton. In Toronto and Hamilton, the registration must occur prior to the lobbying activity, while in Ottawa and Brampton, the registration can occur after the lobbying activity. In the case of the City of Ottawa, registration can occur up to 15 business days after the lobbying activity.

Registrations that occur after the lobbying activity recognize the potential for lobbying activities to occur outside of formal, pre-set meetings. For example, a public office holder at a community event may have an unplanned interaction with a lobbyist. Allowing for after-the-fact registrations allows for the registry to record these activities while accepting that not all lobbying activities occur in a pre-planned manner. It is recommended that Vaughan lobbyist registry permit for the registration to occur up to five business days after the communication takes place.

Lobbyist registration typically involves providing some basic information about the lobbyist, the subject matter they are lobbying on and the closure of the matter which is the subject of the lobbying activity. It is recommended that the lobbyist registry by-law require the following information be included in any registration:

- **Registration as a Lobbyist**
  - Provide name, title and address
  - Type of lobbyist (consultant, in-house or voluntary unpaid)
  - Name of individual, client or organization they are lobbying on behalf of
- **Subject Matter Registration**
  - Each matter they will lobby on
  - Description of the issue being lobbied
  - Date on which the lobbying will start and finish
  - Names of public office holders being lobbied
- **Closure of the Subject Matter Registration**
  - The lobbyist must close the subject matter registration no more than 30 days after the completion of the lobbying activity so that it is known when the lobbying activity ends

### Communication

The basic definition of communication is that it means any form of expressive contact, including oral, written or electronic communication or any other meaningful dialogue that falls within the definition of lobbying. This represents the basic definition of communication and can form the basis of Vaughan's definition, as it adequately covers the common understanding of what communication with public officials consists of.

In addition to that basic definition, both the Ottawa and Brampton lobbyist registry by-laws add that communication can occur in either a formal or an informal setting. This is an important addition as it clarifies, for the public office holders subject to the lobbyist registry, that communication can take place both in formal settings (i.e. meetings at their office) and informal settings (i.e. social events, unplanned meetings). This addition to the basic definition is important to demonstrate the transparency and accountability of the registry, as well as creating confidence in the overall lobbyist registry.

The definition of "communication", as included in the draft lobbyist registry by-law is:

*"means any form of expressive contact including, but not limited to, a formal meeting, email, or other electronic messaging, facsimile transmission, letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or in an informal setting."*

### Lobbying

The definition of lobbying is another key component to any form of lobbyist regulation. The Brampton and Ottawa definitions of lobbying are straightforward and concise. The City of Brampton lobby definition is "any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence and legislative action." The Ottawa by-law furthers this definition by including a list of specific activities, including "development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a Ward Councillor or staff member acting under delegated authority".



Both the Toronto and Hamilton registries go well beyond the Brampton and Ottawa definitions by including a more detailed list of activities. The list includes lobbying activities related to the development of City policy, purchasing of goods and services, approval of permits and licenses, financial contributions, and the transfer of the City's interest or asset of any business, enterprise or institution. Hamilton includes lobbying activities related to the hiring, disciplining or terminating of any member of the City's senior management team.

The definition of "lobby", as included in the draft lobbyist registry by-law is:

*"any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence any legislative action, including, but not exclusively, development, introduction, passage, defeat, amendment or repeal of a bylaw, motion, resolution or the outcome of a decision on any matter before Council or a Committee of Council, or staff member acting under delegated authority."*

### Lobbyists

There is substantial agreement in the four existing registries as to the type of lobbyists regulated, and their definitions. Based on the existing registries, the following definitions have been included in the draft lobbyist registry by-law:

- **Consultant Lobbyist** - an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). If the consultant lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
- **In-House Lobbyist** - an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization. If the in-house lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
- **Voluntary Unpaid Lobbyist** - an individual who lobbies without payment on behalf of an individual, business or other organization for the benefit of the interests of the individual, business or other organization. If the voluntary unpaid lobbyist arranges a meeting between a public office holder and a third party; that is lobbying.

The distinction between the different types of lobbyists will be important when determining what lobbying activities may be exempt from the reporting requirements of the registry.

### Public Office Holder

The definition of Public Office Holder is another key component of lobbying regulation. The definition of Public Office Holder must be carefully considered as it impacts the breadth and scope of a lobbyist registry. The definition also plays a role in creating confidence in the registry and contributing to the public's perception of its utility.

For the purposes of the Vaughan lobbyist registry, the following persons are recommended to be included within the definition of Public Office Holder

1. A member of Council and any person on his or her staff
2. An employee of the City who is a member of the City's Corporate Management Team
3. Employees in management positions that can influence programs and services
4. Employees who are not in management positions but have direct contact with members of Council and whose work includes providing advice to Council
  - including advice on legal, financial, personnel, policy advice
  - including employees who provide planning, building, licensing, inspection and purchasing services
5. Employees who have direct contact with Council in the operation of Council and Committees

6. Employees who work on municipal elections in a supervising role
7. An accountability officer appointed under the *Municipal Act, 2001*, including, but not limited to:
  - Auditor General
  - Integrity Commissioner
  - Lobbyist Registrar
  - Ombudsman
  - Closed Meeting Investigator

### Lobbyist Exemptions

Defining lobbyists and defining who is not to be considered a lobbyist will provide clarity to stakeholders. Within each of the existing lobbyist registries in Ontario the following persons have been exempted in the lobbying regulation by-laws examined, and are recommended to be exempt in Vaughan's regulation of lobbying activities:

- People acting in their official capacity for another government or public sector, including:
  - Members of the Senate or House of Commons of Canada, legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of those members
  - Members of a First Nation council as defined in the *Indian Act*, or persons on the staff of those members
  - Employees or consultants retained by another level of government, First Nation, crown corporation or federal/provincial public agency
  - A member of a Council or statutory body
- Officials and employees of the City and other municipal bodies, including
  - Public office holders
  - Officers, directors or employees of a local board of the City
  - A member of an advisory committee appointed by Council
- Persons communicating on behalf of the local school boards
- Persons communicating on behalf of healthcare institutions

### Lobbying Exemptions

Equally as important as having exemptions for specific lobbyists, exemptions for specific lobbying activities are important. What is not to be considered lobbying is important to establish and is a typical component of existing registries. The following list of activities are recommended for exemption:

- Communication that is a matter of public record or occurs during a meeting of Council, Local Board or Committee of Council;
- Communication that occurs as part of a public process, such as a public meeting, open house or media event held or sponsored by the City or public office holder;
- Communication restricted to a request for information;
- Communication restricted to compliments or complaints about a service or program;
- Communication with a public office holder by an individual on behalf of an individual, business or organization regarding:
  - Enforcement of an Act or by-law
  - Implementation or administration of any policy or program
  - A personal matter
- Communication by an applicant, interested party or their representatives with respect to an application for service, permit or license, planning approval, permission or other approval, where the communication:
  - is restricted to providing general information on an application;
  - is part of the normal course of an approval process;

- is in respect of planning and development applications, is with an employee who has a role in the processing of the planning application;
- Submitting a bid proposal as part of a procurement process;
- Communication with a public office holder in response to a written request from the public office holder;
- Communication to a member of Council by a constituent on a general neighbourhood or public policy issue; and
- Communication is by a voluntary unpaid lobbyist on behalf of a not-for-profit group or organization

### Lobbyist Registrar

Section 223.11(1) of the *Municipal Act* permits a municipality to appoint a Lobbyist Registrar; more specifically, it states that a municipality is authorized “to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry”. No further guidance or direction is given by the *Act* with respect to the type of person who can be appointed or their necessary background, except that the Registrar is not required to be an employee of the municipality.

Generally, the responsibilities of the Registrar include:

- Overseeing the administration of the lobbyist registration system
- Providing advice, opinions and interpretations regarding the lobbyist registry
- Conducting investigations or inquiries to determine if the lobbyist registry by-law has been contravened
- Suspending or revoking a registration
- Enforcing the lobbyist registry by-law

The Lobbyist Registrar may be given the authority to conduct inquiries, impose sanctions and where necessary refer inquiries to the appropriate authorities for investigation. Given that it is recommended that there be a one-year voluntary lobbyist registry, there will be no need to conduct investigations or issue sanctions. The Lobbyist Registrar can be a person who is knowledgeable with lobbyist registries and will take on the role of an educator, promoter and administrator. For those reasons, it is recommended that the City Clerk or designate be appointed as the Lobbyist Registrar only during the voluntary registry period.

Once the registry moves from a voluntary one to a mandatory one, a Lobbyist Registrar should have the appropriate background, skills and experience to undertake activities such as conducting inquiries, imposing sanctions, and where necessary referring inquiries to the appropriate authorities. Recognizing these needs, the Cities of Ottawa and Hamilton appointed their Integrity Commissioners also as their Lobbyist Registrars. This is an option that can be further explored to determine if this is a suitable solution for the City of Vaughan, along with other potential options, including the appointment of another third party or staff member as the Lobbyist Registrar.

There are also budget implications with appointing a lobbyist registrar with the appropriate experience. It is recommended that staff continue to evaluate the options and report to Council on those options and budget impacts through the 2017 budget process.

### Inquiries, Sanctions and Prosecutions

Section 223.12(1) of the *Municipal Act* permits the Lobbyist Registrar to conduct an inquiry when requested to do so by Council, a member of Council or a member of the public. The inquiry would be related to compliance with the requirements of the lobbyist registry, or the lobbyist’s Code of Conduct. Inquiries must be conducted confidentially.

Section 223.9(1) of the *Municipal Act* allows for a municipality, in part, to “Impose conditions for registration, continued registration or a renewal of registration” and to “Refuse to register a person, and suspend or revoke a registration”. Through these tools, a municipality may develop their own sanctions or penalties when the registry by-law is contravened.

Where the Lobbyist Registrar is conducting an inquiry, and the Registrar “determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the Criminal Code”, the Registrar must immediately refer the matter to the appropriate authority. The inquiry must also be suspended until any police investigation and charge is disposed of. The suspension of the inquiry must be reported to Council. This is a requirement of the *Municipal Act* and not subject to any municipal requirements.

The Registrar may report inquiry findings back to Council and any report received by Council must be made publically available. All four Ontario municipalities with a lobbyist registry by-law have assigned the powers for inquiry to their Lobbyist Registrar.

Given that a voluntary lobbyist registry is being recommended for a one-year period, it would be inappropriate to include any inquiry or sanction powers for the lobbyist registry. Implementation of a mandatory registry will include these tools for the Lobbyist Registrar.

#### Other Tools

The *Municipal Act* contains other tools not already discussed that may be implemented through a lobbyist registry by-law. These tools may add to the accountability and transparency of the lobbyist registry, and help build trust that the registry is effective in enhancing those traits. These tools are:

- Prohibiting Lobbyists from receiving payment that is contingent upon the successful outcome of any lobbying activity
- Prohibiting former public office holders from lobbying current public office holders for a specified period of time

These tools have been implemented, to varying degrees in the existing lobbying regulation by-laws in Ontario. It is recommended that both of these tools be included in the Vaughan Lobbyist Registry By-law. More specifically, the draft by-law includes the following:

- Lobbyists are prohibited from undertaking lobbying activities where payment to the lobbyist is, in whole or in part, contingent upon the successful outcome of lobbying activities
- No former public office holder shall engage in lobbying activities for a period of 12 months after ceasing to be a public office holder

#### Online Portal

An online portal is an important component for the lobbyist registry, both for lobbyists and for those who wish to review the lobbying activities that have been registered. The portal for lobbyists would, ideally, include the ability for lobbyists to set-up secure online accounts. Lobbyists would be required to provide information regarding the identity of the lobbyist, who they are lobbying for, the lobbying subject matter and which public office holders they are lobbying. The portal for the public would allow for the searching of lobbyists, their activities and the public office holders who are lobbied.

During the voluntary lobbyist registry, the operation of the online portal will be reviewed, refined and where necessary, alternative options will be explored. In consultation with the IT Department, various options for an online portal have been discussed. Depending on the option selected

resources and additional funding may be required and they will be requested through the standard budget review process.

### Lobbyist Code of Conduct

A draft Lobbying Code of Conduct was presented at the March 7, 2016 Committee of the Whole (Working Session). The draft Code has been updated based on the feedback received and is attached as Attachment #2. The Lobbyist Code of Conduct will be included in the Lobbyist Registry By-law.

### Consultation

On May 4th an Information/Feedback meeting was held at City Hall. Approximately 12 people attended. There was a general consensus that a lobbyist registry was a positive step in enhancing the City's accountability and transparency framework. A summary of the feedback received is summarized below:

- Non-profit organizations should be subject to the lobbyist registry
- Public office holders, including Council and senior staff, should be subject to the reporting requirements of the lobbyist registry
- Existing codes of conduct for Council and staff should be updated to reflect requirements of the registry
- Too many exemptions being proposed
- Other levels of government should not be exempt
- Reporting needs to be timely
- Should allow for both pre- and post-lobbying registrations

### **Relationship to Term of Council Service Excellence Strategy Map (2014-2018)**

This report supports the goals established by Council in the Term of Council Service Excellence Strategy Map by facilitating the establishment of a lobbyist registry, a specified priority of Council in the Term of Council Service Excellence Strategy Map (2014-2018).

### **Regional Implications**

None

### **Conclusion**

A lobbyist registry is a tool that the *Municipal Act* provides to a municipality, as part of an overall accountability and transparency framework. This report identifies the components of a one-year voluntary Lobbyist Registry in anticipation of a mandatory Lobbyist Registry.

### **Attachments**

1. Draft Voluntary Lobbyist Registry By-law
2. Lobbyists' Code of Conduct

**Report prepared by:**

Todd Coles, Manager of Development Services and  
Secretary Treasurer to Committee of Adjustment, ext. 8332

Jeffrey A. Abrams, City Clerk, ext. 8281

Respectfully submitted,



Jeffrey A. Abrams,  
City Clerk

ATTACHMENT #1

**DRAFT**

***THE CITY OF VAUGHAN***

***BY-LAW***

**BY-LAW NUMBER XXX-2016**

**A By-law to permit the establishment of a Lobbyist Registry;**

WHEREAS Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the City of Vaughan's public office holders;

AND WHEREAS section 223.9 of the *Municipal Act, 2001* authorizes the City of Vaughan to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby the City of Vaughan's public office holders;

AND WHEREAS section 223.11 of the *Municipal Act, 2001* authorizes the City of Vaughan to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the City of Vaughan with respect to the Lobbyist Registry;

AND WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001* authorize the City of Vaughan to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 10(2) authorizes by-laws respecting the accountability and transparency of the municipality and its operations;

NOW THEREFORE the Council of the City of Vaughan enacts as follows:

**1) Definitions**

- a) "City" – means the corporation of the City of Vaughan
- b) "Code of Conduct" - means the Lobbyist Code of Conduct, attached as Schedule "A" to the Lobbyist Registry By-law.
- c) "communication" - means any form of expressive contact including, but not limited to, a formal meeting, email, or other electronic messaging, facsimile transmission, letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or in an informal setting.
- d) "lobby" - means any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence any legislative action, including, but not exclusively, development, introduction, passage, defeat, amendment or repeal of a bylaw, motion, resolution or the outcome of a decision on any matter before Council or a Committee of Council, or staff member acting under delegated authority.

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- e) "lobbyist" – means:
- (1) **Consultant Lobbyist** - an individual who lobbies for payment on behalf of a client (another individual, company, partnership or organization). If the consultant lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
  - (2) **In-House Lobbyist** - an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or organization. If the in-house lobbyist arranges for a meeting between a public office holder and a third party, that is lobbying.
  - (3) **Voluntary Unpaid Lobbyist** - an individual who lobbies without payment on behalf of an individual, business or other organization for the benefit of the interests of the individual, business or other organization. If the voluntary unpaid lobbyist arranges a meeting between a public office holder and a third party, that is lobbying.
- f) "Lobbyist Registrar" – means the person appointed as Lobbyist Registrar under section 223. 11 of the *Municipal Act, 2001*.
- g) "Lobbyist Registry" – means a system of registration in which shall be kept registrations (returns) of persons who lobby public office holders and which shall include such information as determined by the Lobbyist Registrar.
- h) "local board" – means has the same meaning as the definition of a local board in section 223. 1 of the *Municipal Act, 2001*.
- i) "public office holder" – means
- (1) A member of Council and any person on his or her staff
  - (2) An employee of the City who is a member of the City's Corporate Management Team
  - (3) Employees in management positions that can influence programs and services
  - (4) Employees who are not in management positions but have direct contact with members of Council and whose work includes providing advice to Council
    - (a) including advice on legal, financial, personnel, policy advice
    - (b) including employees who provide planning, building, licensing, inspection and purchasing services
  - (5) Employees who have direct contact with Council in the operation of Council and Committees
  - (6) Employees who work on municipal elections in a supervising role



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(7) An accountability officer appointed under the *Municipal Act, 2001*, including, but not limited to:

- (a) Auditor General
- (b) Integrity Commissioner
- (c) Lobbyist Registrar
- (d) Ombudsman
- (e) Closed Meeting Investigator

## 2) Establishment of a Lobbyist Registry

- a) The Lobbyist Registry is established pursuant to Section 223.9 of Part V.1 of the *Municipal Act, 2001*.
- b) The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

## 3) Exemptions for Specific Persons

- a) This by-law does not apply to the following persons when acting in their public capacity:
  - i) government or public sector, other than the City of Vaughan,
    - (a) Members of the Senate or House of Commons of Canada, legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of those members;
    - (b) members of a First Nation council as defined in the *Indian Act* or of the council of an Indian band established by an Act of the Parliament of Canada, or persons on the staff of the members;
    - (c) employees or consultants retained by the Government of Canada, the government of a province or territory, a First Nation council, a federal or provincial crown corporation or other federal or provincial public agency;
    - (d) members of a council or other statutory body, including a local board, charged with the administration of the civil or municipal affairs of a municipality in Canada other than the City, persons on staff of the members, or officers or employees of the municipality or local board, and
    - (e) members of a national or sub-national foreign government, persons on the staff of the members, or officers, employees, diplomatic agents, consular officers or official representatives in Canada of the government.

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- ii) Officials and employees of the City and other municipal bodies, including
  - (a) Public office holders;
  - (b) officers, directors or employees of a local board of the City and acting in their public capacity;
  - (c) a member of an Advisory Committee, acting in their public capacity and appointed by City Council
- iii) Persons communicating on behalf of the local school boards
- iv) Persons communicating on behalf of healthcare institutions

#### 4) Exemptions for Specific Activities

- a) This by-law does not apply to the following activities:
  - i) communication that is a matter of the public record or occurs during a meeting of Council, a Committee of Council;
  - ii) communication that occurs during a public process such as a public meeting, hearing, consultation, open house or media event held or sponsored by the City or a public office holder or related to an application;
  - iii) Communication restricted to a request for information;
  - iv) Communication restricted to compliments or complaints about a service or program;
  - v) Communication with a public office holder by an individual on behalf of an individual, business or organization regarding:
    - (a) the enforcement, interpretation or application of any Act or by-law by the public office holder and with respect to the individual, business or organization;
    - (b) the implementation or administration of any policy, program, directive or guideline by the public office holder and with respect to the individual, business, organization A personal matter;
    - (c) a personal matter of the individual, business or organization unless it is communication that is in respect of a matter that falls under the definition of lobbying, that is for the special benefit of the individual, business or organization;
  - vi) communication by an applicant, an interested party or their representatives with respect to an application for a service, grant, planning approval, permit or other license or permission:
    - (a) with an employee of the City or a Member of Council if the communication is restricted to providing general information on an application, including a proposed or pending application, or to inquire about the application review process,

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- (b) with an employee of the City if the communication is part of the normal course of the approval process,
- (c) with respect to planning and development applications, if the communication is with an employee of the City who has a role in the processing of a planning application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- vii) submitting a bid proposal as part of the procurement process and any communication with designated employees of the City as permitted in the procurement policies and procurement documents of the City;
- viii) communication with a public office holder by an individual on behalf of an individual, business or organization in direct response to a written request from the public office holder;
- ix) communication to a Member of Council by a constituent of the Member of Council, or an individual on behalf of a constituent of the Member of Council on a general neighbourhood or public policy issue;
- x) communications directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder;
- xi) communication is by a voluntary unpaid lobbyist on behalf of a not-for-profit group or organization

**5) Prohibitions**

- a) No person, on whose behalf another person undertakes lobbying activities, shall make a payment for the lobbying activities that is in whole or in part contingent on the successful outcome of any lobbying activities.
- b) No person who lobbies a public office holder shall receive payment that is in whole or in part contingent on the successful outcome of any lobbying activities.
- c) No former public office holder shall engage in lobbying activities for a period of twelve (12) months after ceasing to be a public office holder at the City.

**6) Lobbyist Registrar**

- a) The City Clerk of the City of Vaughan is appointed the Lobbyist Registrar in accordance with Section 223.11 of the *Municipal Act, 2001*.
- b) The City Clerk may designate the duties of the Lobbyist Registrar to a member of the staff.
- c) The Lobbyist Registrar is independent of the City administration.

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- d) The Lobbyist Registrar is responsible for the following:
- (1) overseeing the administration of the lobbyist registration system;
  - (2) providing advice, opinions and interpretations pertaining to the administration and application of this by-law;
  - (3) advising Council on lobbying matters and recommending improvements and amendments to this by-law;
  - (4) providing to Council any periodic reports and information as the Registrar considers appropriate;
  - (5) making the Lobbyist Registry available for public inspection through electronic, web-based access at all reasonable times and in a manner that the Lobbyist Registrar may determine; and,
  - (6) performing other duties as may be assigned by Council.

## 7) Registrations

- a) A person with the intent to lobby may voluntarily register as a lobbyist prior to the first lobbying communication with a public office holder and shall do so no later than ten (10) business days after the lobbying communication takes place.
- b) The lobbyist may set out in the registration the following information:
- (1) Name, title, and business address (where applicable);
  - (2) Whether the lobbyist is a consultant lobbyist, in-house lobbyist or voluntary unpaid lobbyist;
  - (3) The name of the individual, client or other organization, including all business names under which the individual, client or other organization is operating, on whose behalf the lobbyist is lobbying; and
  - (4) Such further information as the Lobbyist Registrar may require.
- c) The lobbyist may set out in the registration the subject matter in respect of which the lobbyist intends to lobby the public office holder on:
- (1) Each subject matter that the lobbyist will lobby on;
  - (2) Description of the issue being lobbied, including particulars of any relevant City proposal, by-law, motion, resolution, policy, program, directive, grant, or guideline;
  - (3) Date on which the lobbying will start and finish, with the date on which the lobbying finishes being no more than twelve (12) months after the date on which the lobbying starts;
  - (4) Names of public office holders being lobbied; and
  - (5) Such further information as the Lobbyist Registrar may require.

ATTACHMENT #1

**DRAFT**

- d) A lobbyist shall update any changes to his or her registration within ten (10) business days of the change taking place.
- e) The lobbyist shall close the subject matter registration he or she has filed not later than thirty (30) days after the completion or termination of the lobbying activity.
- f) The subject matter shall be closed once lobbying is complete or within twelve (12) months of lobbying commencing, whichever is sooner.
- g) A subject matter registration may be extended beyond twelve (12) months at the sole discretion of the Lobbyist Registrar.
- h) The Lobbyist Registrar will approve or refuse the registration in accordance with the requirements of the Lobbyist Registry By-law.

**8) Responsibilities of the Lobbyist**

- a) All lobbyists are responsible for complying with the requirements of the Lobbyist Registry By-law;
- b) Lobbyists shall disclose if they have held a public office holder position at the City and the date the individual ceased to hold the position;
- c) Lobbyists shall disclose if they hold a position on a local board of the City; and,
- d) Lobbyists shall adhere to the Code of Conduct, attached as Schedule "A" to the Lobbyist Registry By-law, during the conduct of lobbying activities with public office holders.

**9) General**

- a) This by-law shall be known as the Lobbyist Registry By-law.
- b) The Lobbyist Code of Conduct is attached hereto as Schedule "A".
- c) This by-law shall come into effect on January 1, 2017.

Enacted by City of Vaughan Council this \*\* day of \*\*\*\*\*, 2016.

\_\_\_\_\_  
Hon. Maurizio Bevilacqua, Mayor

\_\_\_\_\_  
Jeffrey A. Abrams, City Clerk

Authorized by Item No. \_\_\_\_ of Report No. \_\_\_\_  
of the \_\_\_\_\_ Committee  
Adopted by Vaughan City Council on  
\_\_\_\_\_

ATTACHMENT #2

**LOBBYIST CODE OF CONDUCT**  
**SCHEDULE "A" TO THE LOBBYIST REGISTRY BY-LAW**

**1. Honesty**

- a. Lobbyists shall conduct with integrity and honesty all relations with public office holders, clients, employers, the public and other lobbyists.

**2. Openness**

- a. Lobbyists shall be open and frank about their lobbying activities, while respecting confidentiality.

**3. Disclosure Of Identity and Purpose**

- a. Lobbyists communicating with a public office holder shall disclose the identity of the individual, corporation, organization or other person, or the partnership, on whose behalf they are acting, as well as the reasons for the communication.
- b. Lobbyists communicating with a public office holder on a duly registered and disclosed subject matter shall not use that opportunity to communicate on another subject matter, unless first having registered as required and disclosing the identity and purpose.

**4. Information and Confidentiality**

- a. Lobbyists shall inform their client, employer or organization of the obligations under this Code of Conduct
- b. Lobbyists shall provide information that is accurate and factual to public office holders.
- c. Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently.
- d. Lobbyists shall not divulge confidential information unless they have obtained the informed consent of their client, employer or organization, or disclosure is required by law.
- e. Lobbyists shall not use any confidential or other insider information obtained in the course of their lobbying activities to the disadvantage of their client, employer or organization.

**5. Competing Interests**

- a. Lobbyists shall not represent conflicting or competing interests without the written consent of those whose interests are involved.

- b. Lobbyists shall advise public office holders that they have informed their clients of any actual, potential or apparent conflict of interest and obtained the informed consent of each client concerned before proceeding or continuing with the undertaking.
- c. Lobbyists shall not lobby public office holders on a subject matter for which they also provide advice to the City.

**6. Improper Influence**

- a. Lobbyists shall avoid both the deed and the appearance of impropriety.
- b. Lobbyists shall not knowingly place public office holders in a conflict of interest or in breach of the public office holders' codes of conduct or standards of behaviour.

**7. Restriction on Communication**

- a. Lobbyists shall not communicate in relation to a procurement process except as permitted by the City's procurement policies and procurement documents.
- b. Lobbyists shall not engage in lobbying activities where the Lobbyist Registrar has prohibited them from lobbying for a specified time period.