

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 27, 2017

Item 12, Report No. 6, of the Finance, Administration and Audit Committee, which was adopted, as amended, by the Council of the City of Vaughan on June 27, 2017, as follows:

By approving the following:

- 1. That Council approve the appointment of Ms. Suzanne Craig as part-time Lobbyist Registrar in addition to her current role as Integrity Commissioner for the remainder of the 2014-2018 Council and for the following term Council from 2018-2022; and***
- 2. That Council authorize the City Manager and Mayor to execute the amended contract of Ms. Craig which was developed within the Council approved mandate;***

By approving the confidential recommendation of the Council (Closed Session) meeting of June 27, 2017; and

By receiving Confidential Communication C22, from the City Manager, dated June 27, 2017.

12 BUDGET AMENDMENT: OPTIONS FOR THE APPOINTMENT OF A LOBBYIST REGISTRAR

The Finance, Administration and Audit Committee recommends:

- 1) That the recommendation contained in the following report of the City Clerk, dated June 6, 2017, be approved; and**
- 2) That the confidential recommendation in Communication C3 from the City Manager, dated June 6, 2017, be approved.**

Recommendation

The City Clerk, in consultation with the City Manager and Chief Financial Officer, recommends:

- 1. That a Lobbyist Registrar be appointed by January 1, 2018 based on Option 2 – Part Time Lobbyist Registrar;**
- 2. That Council approve a permanent transfer from Corporate Contingency in the amount up to \$250,000 to the new Office of the Lobbyist Registrar as determined by City Manager and the Chief Financial Officer; and**
- 3. That the inclusion of this matter on a Public Committee or Council Agenda with respect to the budget amendment be deemed as sufficient notice pursuant to Section 2(1)(c) of By-Law 394-2002.**

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

Depending on the option selected for the appointment of a Lobbyist Registrar, the economic impact will vary. Should Council approve the recommendations provided above, the estimated economic impact would be up to \$250,000. While the entirety of the \$250,000 is likely not

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required for 2017, there are certain startup costs that must also be addressed prior to the recommended implementation date of January 1, 2018 and therefore the full annual amount is being recommended at this time, but at the discretion of the City Manager and Chief Financial Officer. Further details of the estimated costs are provided in the body of this report.

It should be noted that while a budget amendment is recommended to be provided for in 2017 through a transfer from Corporate Contingency, this would still result in a pressure on the 2018 tax levy. The maximum amount of \$250,000 proposed to be permanently transferred from Corporate Contingency would need to be replenished through the 2018 budget process to ensure appropriate fiscal risk management continues to be in place to address other unknown pressures that may arise on an annual basis. Staff would still be committed to ensure that this replenishment is addressed within the 3 per cent tax rate increase target.

Communications Plan

This report was made available on the City's website. There is a dedicated Lobbyist Registry webpage on the City's website and email address.

Purpose

The purpose of this report is to provide Council with a recommendation for the appointment of a Lobbyist Registrar for a future mandatory lobbyist registry. Additionally, an update on the voluntary lobbyist registry is provided.

Background - Analysis and Options

Statutory Authority to Establish Lobbyist Registry

The *Municipal Act, 2001* (the "Act") 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 *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.

Establishment of Voluntary Lobbyist Registry

At the Council meeting of June 7th, 2016, Council approved the recommendation of the City Clerk [Item 9, Report No. 26, Committee of the Whole (Working Session)] to enact a by-law to establish a voluntary Lobbyist Registry for the City of Vaughan. By-law 105-2016 was passed on June 28th, 2016 and came into effect on January 1st, 2017. In approving this recommendation, Council also directed that specific mechanisms for the establishment of a mandatory lobbyist registry be developed for implementation in 2018.

A website was developed to provide access to the lobbyist registry and to allow lobbyists the opportunity to register themselves and their activities, as well as providing general information. The first registrations took place on January 3rd, 2017. To date, there have been 13 lobbyists registered, including both open and closed lobbyists. These registrations include 7 different clients, not including self-representations, and 12 different subject matters. Overall, there have been 41 issues registered.

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Lobbyist Registrar

Section 223.11(1) of the *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. For the voluntary lobbyist registry, there was no need to conduct investigations or issue sanctions. For those reasons, it was recommended that the City Clerk or designate be appointed as the Lobbyist Registrar only during the voluntary registry period, and this was included in the Voluntary Lobbyist Registry By-law.

Lobbyist Registrar Qualifications

When the lobbyist 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.

Some of the qualifications include:

- background in applying investigation techniques
- ability to exercise fair, objective and equitable decision-making
- ability to provide outreach and training

Option 1: Full Time Lobbyist Registrar

The first option is for the appointment of a full-time Lobbyist Registrar, along with the necessary administrative staff. In reviewing the practices at other Ontario municipalities who have a Lobbyist Registrar, only the City of Toronto has a full-time Lobbyist Registrar. The City of Toronto is required to have a lobbyist registry by legislation. In addition, the size of the administration of the City of Toronto increases the potential for lobbying interactions to take place. Other Ontario municipalities that have a lobbyist registry, such as the City of Brampton, City of Hamilton, City of Ottawa, and the Region of Peel, typically employ a Lobbyist Registrar on a retainer basis, and as part of a larger accountability office and the Lobbyist Registrar would, therefore, have more than one role.

Experience with the City of Vaughan lobbyist registry, even taking into consideration its voluntary nature, has shown that the role of the Lobbyist Registrar is not likely a full-time position. To date, the lobbyist registry has primarily been managed by one staff member with the assistance of IT staff in dealing with any website issues. Time spent on the lobbyist registry, once it became active on January 1st, 2017 has only been in the order of several hours per week, including any educational sessions that have been provided.

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It is expected that the involvement of the Lobbyist Registrar will increase with a mandatory lobbyist registry. Transitioning to a mandatory registry will require public outreach and training to staff, Public Office Holders, the public and lobbyists. This is a potentially time-consuming activity that may be somewhat offset by the fact that some of this has already been done through the voluntary registry.

After an initial surge in registrations it is anticipated the number of registrations will stabilize. This was seen in the City of Ottawa, where there were 552 new lobbyists in the first year of their registry and approximately 300 new lobbyists for the following three years. A similar pattern was seen in the number of the lobbying files.

Option 2: Part-Time Lobbyist Registrar

The most common approach taken by other Ontario municipalities with a lobbyist registry is to appoint a Lobbyist Registrar in a multi-faceted role. In most cases the Lobbyist Registrar is part of a larger accountability officer role. Specifically, the roles of the lobbyist registrar and integrity commissioner are served by the same person. Below is a summary of the other municipalities and their arrangements:

Municipality	Accountability Officer Roles	Procurement Method
City of Brampton	Lobbyist Registrar Integrity Commissioner	Contract/Retainer
City of Hamilton	Lobbyist Registrar Integrity Commissioner	Retainer
City of Ottawa	Lobbyist Registrar Integrity Commissioner Meeting Investigator	Full-Time
Region of Peel	Lobbyist Registrar Integrity Commissioner	Retainer

In each case, the Lobbyist Registrar has administrative staff to assist with their duties. The prevailing model in other municipalities is to have administrative staff whose duties, among others, is to aid the Lobbyist Registrar, rather than dedicated staff.

It is recommended that the City of Vaughan pursue a part-time Lobbyist Registrar on contract/retainer, or as part of a larger or combined Accountability Officer Role, as the preferred option for the appointment of the Registrar for a mandatory lobbyist registry.

Option 3: Existing Staff Member

The set of skills and qualifications for the Lobbyist Registrar, as already outlined in this report, are very specific, especially related to conducting of investigations and assessing penalties or sanctions. There are no existing city staff positions within the current administrative structure with the capacity to take on this role. Furthermore, an independent Lobbyist Registrar is preferred and this is best achieved through Option 2.

Estimated Cost of Establishing an Office of the Lobbyist Registrar

The implementation of a mandatory lobbyist registry will require a dedicated budget. The voluntary lobbyist registry was developed within existing departmental budgets. This will not be possible with the mandatory registry. There are two primary areas of cost associated with a mandatory lobbyist registry:

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- the appointment of a Lobbyist Registrar and administrative staff
- the maintenance and enhancement of the Lobbyist Registry website

The budget for the Lobbyist Registrar must take into account Registrar's compensation, office overhead, supplies and cost associated with an assistant. The estimated cost for this is approximately \$200,000 per year. Should a combined Accountability Officer role be pursued it is anticipated that this cost could be reduced.

The website was built using existing funds, however there were no funds available for the ongoing upkeep of the site. There is a maintenance component to the website that requires approximately \$15,000 per year.

Moving to a mandatory lobbyist registry will increase the demand on the website and raise demands for better and easier access to data. Currently the lobbyist registry is published on the website as a PDF document, which is searchable using existing software tools. With a larger registry, it is appropriate to provide better search and sorting tools, to allow easier access to the data that will be created. The budget necessary for these improvements is approximately \$35,000.

The combined estimated budget for the Lobbyist Registrar, their related office and staffing cost, and website development and maintenance is estimated at \$250,000.

Next Steps

With a decision around the appointment of a Lobbyist Registrar for a mandatory lobbyist registry the next steps are more clearly defined. The communication plan for the promotion of the voluntary lobbyist registry will continue, as will the outreach, education and training.

For the implementation of a mandatory lobbyist registry in 2018, staff will report to a future Committee meeting in Q3 of 2017 outlining:

- enhancements and changes to the lobbyist registry based on lessons learned during the voluntary period
- proposed penalties and sanctions

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 provided to municipalities through the *Municipal Act* which forms part of an overall accountability and transparency framework. An important component of a lobbyist registry is the appointment of a Lobbyist Registrar. This report identifies the preferred option for the recruitment of the Lobbyist Registrar in support of the implementation of a mandatory lobbyist registry.

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Attachments

None

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