

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF OCTOBER 24, 2017

Item 1, Report No. 37, of the Committee of the Whole (Working Session), which was adopted without amendment by the Council of the City of Vaughan on October 24, 2017.

1 IMPLEMENTATION OF THE MANDATORY LOBBYIST REGISTRY

The Committee of the Whole (Working Session) recommends:

- 1) That the recommendation contained in the following report of the City Clerk, dated October 10, 2017, be approved; and**
- 2) That Communication C1 presentation material entitled, *"Implementation of the Mandatory Lobbyist Registry"*, be received.**

Recommendation

The City Clerk, in consultation with the Deputy City Manager, Legal & Human Resources, and the Integrity Commissioner, recommends:

1. That a by-law substantially in the form of Attachment #1 be enacted to establish a mandatory Lobbyist Registry for the City of Vaughan;
2. That the final by-law for a mandatory Lobbyist Registry be in force on January 1, 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

At the June 27th, 2017 Council meeting [Item 12, Report No.6 (Finance, Administration and Audit Committee)], Council approved a budget amendment in the amount of \$250,000. This budget addresses the new Office of the Lobbyist Registrar, administrative staff and website maintenance/enhancement.

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.

Implementation of a mandatory 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 mandatory Lobbyist Registry and transition from the current voluntary Lobbyist Registry.

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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* (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 14 lobbyists registered, including both open and closed lobbyists. These registrations include 10 different clients, not including self-representations, and 15 different subject matters. Overall, there have been 71 issues registered.

Feedback from the lobbyists who have used the system is generally positive. They have indicated that the website is easy to use and there are no issues with it.

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”. For the voluntary Lobbyist Registry, the City Clerk, or their designate, was appointed as the Lobbyist Registrar.

When the lobbyist registry moves from a voluntary to a mandatory registry, it was acknowledged that the 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.

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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

With those qualifications in mind, Council at their June 27th, 2017 meeting [Item 12, Report No.6 (Finance, Administration and Audit Committee)], appointed 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 term and for the following term of Council from 2018 – 2022. The appointment will become effective on January 1st, 2018.

Inquiries, Sanctions and Prosecutions

Section 223.12(1) of the *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 publicly available. The Ontario municipalities with a lobbyist registry by-law have assigned the powers for inquiry to their Lobbyist Registrar.

During the voluntary lobbyist registry, it was inappropriate to include any inquiry or sanction powers for the lobbyist registry. With the implementation of a mandatory registry these tools must be examined for use by the Lobbyist Registrar.

The current penalties and sanctions approved in other lobbyist registries are summarized below:

Municipality	First Offence	Second Offence	Third Offence
Toronto	Fine up to \$25,000	Fine up to \$100,000 for second or subsequent offenses	
Ottawa	1 month ban of lobbying activity	3 month ban of lobbying activity	Integrity Commissioner to determine appropriate sanction
Hamilton	1 month ban of lobbying activity	2 month ban of lobbying activity	Lobbyist Registrar to determine appropriate sanction that exceeds 2 months

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Brampton	1 month ban of lobbying activity	3 month ban of lobbying activity	Lobbyist Registrar to determine appropriate sanction
Peel	1 month ban of lobbying activity	3 month ban of lobbying activity	Lobbyist Registrar to determine appropriate sanction

For the City of Vaughan, a slightly different penalty structure is proposed. In the spirit of fostering awareness and educating lobbyists, the penalty for the first offence would be a meeting and education session with the Lobbyist Registrar. The purpose of this meeting would be to inform, and reinforce with the lobbyist, the importance and value of the lobbyist registry and their obligations under the registry, including the Lobbyist Code of Conduct.

The proposed penalty structure is:

First Offence	Prohibition of lobbying activities until an information and education meeting with the Lobbyist Registrar is held
Second Offence	3 month prohibition of lobbying activities
Third or Subsequent Offenses	Prohibition of lobbying activities as determined by the Lobbyist Registrar

As the Lobbyist Registry becomes accepted as a normal business practice when communicating with City of Vaughan Public Office Holders, the penalty structure could be re-examined to reflect to greater knowledge and use of the Registry. It may be appropriate, as use of the Registry matures, to eliminate the meeting/education session with the Lobbyist Registrar.

Notification of Penalties

Where the Lobbyist Registrar determines that there has been a violation, the resultant penalty must be communicated to the lobbyist, Public Office Holders and general public. Information about the lobbyist and their penalty will be published on the City's Lobbyist Registry website and communicated to the Public Office Holders.

Obligations of the Public Office Holders

With the ability of the Lobbyist Registrar to conduct investigations into potential violations of the lobbyist registry by-law, there is a need to establish some obligations under the Lobbyist Registry for the Public Office Holders. The recommended obligations are:

- The Public Office Holder shall cease any lobbying related communications with a lobbyist who is prohibited from lobbying; and,
- The Public Office Holder is responsible for providing information in a timely manner to the Lobbyist Registrar with regards to an inquiry being conducted by the Registrar

Enhancements to the Lobbyist Registry

There are improvements to the Lobbyist Registry website that will be helpful to both the users of the website (lobbyists and the public), and to the Lobbyist Registry administrative staff. On the public-facing side of the website, a search engine that allows searching of the Registry by specific criteria (i.e. name of lobbyist, subject matter), would be useful to users looking for specific information.

The administrative side of the registry will benefit from an improved administration module that will allow for better management of the registrations. In addition, the administration module would

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allow for faster updating of the list of Public Office Holders, as an example of just one improvement.

An enhancement, requested by the lobbyists, is the ability to register multiple in-house lobbyists under one corporate name, rather than having to register individually. The technical capability of accommodating this request will be reviewed along with the other website improvements. Finally, the potential for sending an e-mail to the specific Public Officer Holder when they are identified in a registration is also being reviewed as part of the overall website enhancement.

Staff are working with the Office of the Chief Information Officer to implement these enhancements, but depending on availability of resources (including external contractors), some of the enhancements may not be available for the January 1, 2018 launch of the mandatory Lobbyist Registry. The current site is functioning well, provides the necessary information, and has been identified as “easy to use” by the lobbyists, so this is not seen as an obstacle to the implementation of the mandatory registry.

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

The Lobbyist Registrar was appointed on June 27, 2017 and will assume her duties on January 1, 2018 at which time the mandatory registration for lobbyists will come into force. In the months leading up to the January 2018, the appointed Lobbyist Registrar will be working with the relevant City departments to effectively communicate with Members of Council, staff and the business community to allow for a seamless transition to the new accountability regime.

Attachments

1. Draft Mandatory Lobbyist Registry By-law

Report prepared by:

Todd Coles, Deputy City Clerk, ext. 8628

(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.)