

Bill No. 2022-24	Authorization Reference: CSC 11-2021 Minute Item 5.5
<i>As amended by: By-law No. 2022-89 By-law No. 2023-28</i>	<i>CL 17-2022 Minute Item 9.2.2 CL 5-2023 Minute Item 10.2</i>

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 2022-24

A BY-LAW TO ESTABLISH AND MAINTAIN A LOBBYIST REGISTRY FOR THE REGIONAL MUNICIPALITY OF NIAGARA

WHEREAS section 223.9 of the Municipal Act S.O., 2001, Chapter 25, as amended, (the Act) authorizes The Regional Municipality of Niagara to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby The Regional Municipality of Niagara's Public Office Holders;

WHEREAS section 223.11 of the Act authorizes The Regional Municipality of Niagara to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the Region of Niagara with respect to the Lobbyist Registry;

WHEREAS sections 8, 9, and 10 of the Act authorize The Regional Municipality of Niagara 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,

WHEREAS a Lobbyist Registry is considered a publicly accessible accountability and transparency tool;

WHEREAS it is reasonable for Members of Council and the public at large to know the nature and amount of legitimate lobbying of local government; and

WHEREAS Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the Region of Niagara Public Office Holders.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. For the purposes of this By-law:

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“Communication” means any substantive form of communication including a formal meeting, email, letter, phone call or meaningful dialogue or exchange;

"Council" means the Council of The Regional Municipality of Niagara;

"Lobby" or "Lobbying" means any Communication with a Public Office Holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action 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 staff member acting under delegated authority;

"Lobbyist" means:

- a) **"Consultant Lobbyist"**: an individual who Lobbies for payment on behalf of a client (another individual, a business, partnership, organization or other entity);
- b) **"In-house Lobbyist"**: an individual who is an employee, partner or sole proprietor and who Lobbies on behalf of their own employer, business or other entity; and
- c) **"Voluntary Unpaid Lobbyist"**: an individual who Lobbies without payment on behalf of an individual, business or any other for-profit entity for the benefit of the interests of the individual, business or for-profit entity;

"Lobbyist Registrar" means the individual appointed by Council in accordance with section 223.11 of the Municipal Act, 2001;

“Lobbyist Registry” means a system of registration in which shall be kept the Registrations and Returns of persons who Lobby Public Office Holders and which shall include such information as required pursuant to this By-law;

"Public Office Holder" means:

- a) A member of Regional Council;
- b) An officer or employee of The Regional Municipality of Niagara;
- c) A member of a local board or committee established by Council;

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- d) Any accountability officer, appointed under the Municipal Act, 2001, including but not limited to the Integrity Commissioner, the Lobbyist Registrar, Ombudsman, and/or Closed Meeting Investigator; and
- e) Individuals under contract with the Region providing consulting or other advisory services to the Region related to matters with budgetary or operational impacts during the term of their contract.

"Region" means The Regional Municipality of Niagara;

"Registration" means a first filing by a Lobbyist regarding a subject matter he or she intends to Lobby on as set out in subsection 8(1); and

"Return" means an update of a Registration filed by a Lobbyist as set out in subsection 8.2.

PART 2 ESTABLISHMENT OF A LOBBYIST REGISTRY

2. Lobbyist Registry

- 2.1 The Regional Clerk shall develop and maintain a Lobby Registry under the oversight of the Lobbyist Registrar, in which shall be kept all Registrations and Returns filed under this by-law.
- 2.2 The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

3. Exempted Persons and Organizations

- 3.1 The following persons and organizations shall not be considered Lobbyists when carrying out official duties on behalf of and authorized by the public sector bodies they represent:
 - a) Government or public sector not including the Region and other municipal bodies:
 - i. Members of the Senate or House of Commons of Canada, the legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of the members

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- ii. 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
 - iii. 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
 - iv. 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 Region, persons on staff of the members, or officers or employees of the municipality or local board
 - v. 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
- b) Officials and employees of the Region and other municipal bodies:
- i. Public Office Holders
 - ii. Members or employees of a local board of the Region
 - iii. Members of an advisory committee appointed by Council
- c) Other public sector:
- i. Persons Communicating on behalf of local school boards
 - ii. Persons Communicating on behalf of healthcare institutions

4. Exempted Activities

4.1 Lobbying does not include:

- a) Communication that occurs during a meeting of Regional Council or a Committee of Council;

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- b) Communication that occurs during a public process such as a public meeting, hearing, consultation, open house or media event held or sponsored by the Region or a Public Office Holder or related to an application;
- c) Communication that is restricted solely to a request for information;
- d) Communication that is restricted solely to compliments or complaints about a service or program;
- e) Communication with a Public Office Holder by an individual on behalf of an individual, business or other entity about:
 - i. the enforcement, interpretation or application of any Act or by-law, save and except the Region's Procurement By-law, by the Public Office Holder and with respect to the individual, business or other entity;
 - ii. the implementation or administration of any policy, program, directive or guideline by the Public Office Holder and with respect to the individual, business or other entity;
 - iii. a personal matter of the individual, business or other entity 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 other entity;
- f) 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:
 - i. with a Public Office Holder 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;
 - ii. with an employee of the Region if the Communication is part of the normal course of the approval process;

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- iii. with an employee of the Region if the Communication is with respect to planning or development applications and the officer or employee has a role in the processing of a planning or development application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- g) Submitting a bid proposal as part of the procurement process and any Communication with designated employees of the Region as permitted in the procurement policies and procurement documents of the Region;
- h) Communication with a Public Office Holder by an individual on behalf of an individual, business or other entity in direct response to a written request from the Public Office Holder;
- i) Communication to a Public Office Holder by a constituent, or an individual on behalf of a constituent on a general neighbourhood or public policy issue;
- j) Communication directly related to those Region-initiated consultative meetings and processes where an individual is participating as an interested party;
- k) Communication for or against a policy or program that state a position where the primary focus is a broad community benefit or detriment, whether Region-wide or local, and where that position would have no direct, indirect or perceived benefit to a business or financial interest of the individual, business or other entity on whose behalf the Communication is undertaken;
- l) Communication regarding a business or financial interest by not-for-profit businesses or other not-for-profit entity where such business or entity has no paid staff.

5. Prohibitions

- 5.1 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.

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- 5.2 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.
- 5.3 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 of the Region.
- 5.4 No person will Lobby a Public Office Holder unless they are Registered in accordance with this By-law.
- 5.5 No person will provide false or incomplete information in their Registration or Return.
- 5.6 No Lobbyist will offer or provide goods, services or financial compensation in return for support as a part of their Lobbying.

6. Lobbyist Registrar

- 6.1 The Region may appoint an Integrity Commissioner as the Lobbyist Registrar in accordance with section 223 of the Municipal Act, 2001.
- 6.2 The Lobbyist Registrar has the authority to conduct inquiries in respect of a request made by Council, a Member of Council or by a member of the public about compliance with the Lobbyist Registry By-law or the Lobbyist Code of Conduct (attached as Schedule "A"), as set out under section 223.12 of the Municipal Act, 2001.
- 6.3 The Lobbyist Registrar's responsibilities include:
 - a) overseeing the administration of the Lobbyist Registry system;
 - b) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
 - c) conducting inquiries in respect of a request made about compliance with this By-law, which may include requesting that a Public Office Holder gather information concerning Lobbying of him or her and provide that information to Lobbyist Registrar;
 - d) suspending or revoking a Registration;

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- e) enforcing this By-law;
- f) advising Regional Council on Lobbying matters and recommending improvements to this By-law; and
- g) providing an annual report to Regional Council and any other reports as the Lobbyist Registrar considers appropriate.

7. Responsibilities of a Public Office Holder

7.1 A Public Office Holder's responsibilities include:

- a) responding, in a timely and complete manner, to a request from the Lobbyist Registrar under subsection 6.2(c) to gather and provide information; and
- b) ending, as soon as practicable, Lobbying by a Lobbyist who is prohibited from Lobbying and reporting, in a timely manner, such Lobbying to the Lobbyist Registrar.

7.2 Except when responding to a request from the Lobbyist Registrar under subsection 6.3(c), a Public Office Holder's responsibilities under this By-law do not include gathering or providing information concerning Lobbying of him or her.

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PART 3: REGISTRATION AND REPORTING OF LOBBYING ACTIVITY

8. Registrations and Returns

- 8.1 All Lobbyists shall file a Return regarding Lobbying Communication within five (5) business days of the first Communication occurring. The Registration shall include:
- a) their name, address and contact information;
 - b) if they are a Consultant Lobbyist, In-house Lobbyist or Voluntary Unpaid Lobbyist;
 - c) the name of the individual, client or other entity, including all business names under which the individual, client or other entity is operating, on whose behalf he or she is Lobbying;
 - d) the name of the individual or individuals they are Lobbying;
 - e) the subject matter and date on which the Lobbying will start and finish, with the date on which the Lobbying finishes being no more than one year after the date on which the Lobbying starts; and
 - f) any such further information as the Lobbyist Registrar may require.
- 8.2 A Lobbyist shall file a Return updating any change or addition to information provided under Section 8.1 in his or her Registration.
- 8.3 If Lobbying continues for more than one year, a Lobbyist shall file a new Registration for each year the lobbying continues.
- 8.4 The Lobbyist is solely responsible for meeting the requirements with respect to Registrations and Returns set out in this section.
- 8.5 Lobbyists shall read and adhere to the Code of Conduct for Lobbyists during all Lobbying activities with Public Office Holders
- 8.6 The Lobbyist Code of Conduct is attached hereto as Schedule "A" and forms part of this By-law.

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PART 4: ENFORCEMENT AND PENALTIES

9. Penalties

- 9.1 The Registrar may impose a temporary ban on Lobbying in accordance with the following scheme if the Registrar finds that the requirements of this By-law and Code of Conduct have not been met:
- a) for 30 days for a first contravention;
 - b) for 60 days for a second contravention;
 - c) for a period of time longer than 60 days as determined by the Lobbyist Registrar for a third or subsequent contravention.
- 9.2 When the Lobbyist Registrar prohibits an individual from Lobbying, the Lobbyist Registrar:
- a) shall notify the individual and all Public Office Holders of the prohibition and the reason for the prohibition in such manner as the Lobbyist Registrar determines; and
 - b) shall post the prohibition and the reason for the prohibition on the website.
- 9.3 The Lobbyist Registrar may remove a Registration or Return from the Lobbyist Registry if the Lobbyist Registrar finds that the individual who filed the Registration or Return has contravened this By-law.
- 9.4 When a Registration or Return is removed from the Lobbyist Registry, the individual who filed the Registration or Return is deemed, for the purposes of his or her existing and future obligations under this By-law, not to have filed the Registration or Return.
- 9.5. In accordance with subsection 223.12(7) of the Municipal Act, 2001, should the Lobbyist Registrar determine, when conducting an inquiry, that there are reasonable grounds to believe that an individual has contravened a provincial Act or the Criminal Code of Canada, the Lobbyist Registrar shall immediately refer the matter to appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

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PART 5: TITLE, SCOPE AND INTERPRETATION

10. This By-law shall be known as the Lobbyist Registry By-law.
11. In the event of a conflict between the provisions of this by-law and the provisions of another by-law of The Regional Municipality of Niagara the provisions of the more restrictive enactment shall prevail.
12. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.
13. That this By-law shall come into force and effect on the date on which it is passed, with the exception of Part 4: Enforcement and Penalties, which is to come into force and effect twenty-four (24) months after.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: April 14, 2022

Schedule "A"

Lobbyist Code of Conduct

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders.

1. Honesty

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

2. Openness

Lobbyists shall be open and transparent about their lobbying activities at all times, including identifying in all communications with public office holders that are lobbying, while maintaining and respecting necessary confidentiality.

3. Disclosure of Identity and Purpose

- (a) Lobbyists communicating with public office holders shall, at all times, disclose the identity of the individual, business or organization on whose behalf they are lobbying, as well as the subject matter of the communication.
- (b) Lobbyists shall register their name and company information and all lobbying activity with public office holders in accordance with the provisions of the Lobbyist Registry By-law.

4. Information and Confidentiality

- (a) Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' 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.

Schedule "A"

- (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 or potential 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 Region.

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.
- (c) Lobbyists will not offer any goods, services or financial compensation in return for support as a part of their lobbying.

7. Restriction on Communication

- (a) Lobbyists shall not communicate with public office holders in relation to a procurement process except as permitted by the Region'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 period of time.

Subject: Considerations for a Lobbyist Registry

Report to: Corporate Services Committee

Report date: Wednesday, February 17, 2021

Recommendations

1. That this report **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide information respecting the creation and maintenance of a lobbyist registry.
- At its meeting held on December 17, 2020, Regional Council passed a resolution directing staff to research and report back with recommendations for the creation and maintenance of a lobbyist registry.
- A lobbyist registry is considered a publicly accessible accountability and transparency tool.
- Section 223.9(1) of the Municipal Act, 2001, provides authority for establishing and maintaining a lobbyist registry.
- Section 223.11(1) of the Act also permits a municipality to appoint a “registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry and the system of registration.”
- Niagara Region has other transparency and accountability measures in place that can address concerns regarding lobbying.
- There are a number of factors to consider in terms of the type of lobbyist registry model that Council may wish to implement including financial implications to initiating a lobbyist registry that were not considered as part of the 2021 budget process.

Financial Considerations

Should Council wish to proceed with establishing any model of Lobbyist Registry, there are initial start-up and annual operating costs that would be required for an online registry system. This would include information technology required, annual expenses required to maintain the registry and additional costs associated with appointing the Lobbyist Registrar and the hiring of additional administrative/policy support staff.

The costs would vary depending on the Lobbyist Registry model selected, the number of complaints and inquiries received as well as the enforcement model. The City of Vaughan, implemented a mandatory registry with enforcement and budgeted approximately \$250,000 which included the appointment of a Lobbyist Registrar and administrative staff to maintain the Lobbyist Registry.

In 2016 the Town of Caledon provided a report to their Council estimating initial costs for implementation of a registry between \$50,000 and \$100,000 with potential annual costs based on research of Ontario municipalities with active registries ranging from \$55,000 to \$130,000.

Analysis

At its meeting held on December 17, 2020, Regional Council passed the following motion:

- 1. That Council **DIRECT** staff to research and report back with recommendations for the creation and maintenance of a Lobbyist Registry, which should include a regular, transparent reporting process and contains a jurisdictional scan for best practices from other municipal governments in Ontario, such as Toronto, Ottawa, Hamilton, Brampton, Peel Region, Vaughan, and Collingwood; and*
- 2. That this motion **BE CIRCULATED** to Niagara's 12 local area municipalities.*

Section 223.9(1) of the Municipal Act, 2001, authorizes 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".

A lobbyist registry provides a mechanism for public disclosure of lobbying activities. It is a tool that may lead to greater accountability and transparency for local government by allowing public office holders and members of the public to know who is attempting to influence local government.

The basic elements of lobbying legislation are similar across Canada; however, there are key elements that vary, such as, but not limited to, the definition of a "public office holder", the responsibility of the public office holder, the time limits for the registration, the amount of lobbying activity that will trigger registration requirements, and the penalties in case of a contravention of the by-law and code of conduct.

Lobbying occurs when an individual who represents a business or has a financial interest communicates with a public office holder, with the intent to influence a decision on governmental matters outside of the City's normal procedures and processes including but not limited to:

- arrangement of a meeting between a public office holder and any other person on any of the subject matters listed below;
- the outcome of a decision on any matter before Council, a Committee of Council or staff member, or a local board;
- development, introduction, passage, defeat, amendment or repeal of a Region by-law, motion or resolution;
- development, approval, amendment, application or termination of a Region policy, program, directive, guideline;
- purchase of goods, services or construction and the award of a contract by the Region;
- approval, approval with conditions, or refusal of an application for a service, grant, planning approval, permit or other licence or permission by the Region; and,
- transfer to or from the Region of any interest in or asset of any business, enterprise or institution.

The goal of any municipal lobbying registry is to ensure that lobbying is carried out transparently and in a manner that ensures accountability as outlined in Section 223.9 to Section 223.12 of the Municipal Act, 2001, S.O. 2001, c 25 (the "Act").

There are certain activities that, while they may seek to influence municipal behaviour, are not generally considered lobbying. These may include but are not limited to:

- Municipal staff, in their official capacity, discussing official business with Council members or other public officials;
- Individuals acting in their personal capacity to make representations before Council, Committees of Council or Local Boards;
- Providing information to a public official in response to a request;
- Members of other levels of government communicating with public officials while acting in their official capacity; and,
- Casual conversations with public officials that do not specifically pertain to municipal business.

Section 223.9 (1) of the Municipal Act, 2001, S.O. 2001, c 25 (the “Act”) authorizes 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 officer holders.

Although there is variation in the definition of “public office holder” between established Lobbyist Registry by-laws, generally, a public office holder is a member of Council; an officer or employee of the municipality; a member of a local board or a Committee established by Council and any person on his or her staff; an accountability officer appointed under the Municipal Act, 2001, such as Integrity Commissioner, Lobbyist Registrar, Ombudsman, etc.

Section 223.9 (2) of the Act also authorizes the municipality to provide for a system of registration of persons who lobby public office holders and to do the following things:

- Define lobby.
- Require persons who lobby public officer holders to file returns and give information to the municipalities.
- Specify the returns to be filed and the information to be given to the municipality by persons who lobby public officer holders and specify the time within which the returns must be filed and the information provided.
- Exempt persons from the requirement to file returns and provide information.
- Specify activities with respect to which the requirement to file returns and provide information that does not apply.
- Establish a code of conduct for persons who lobby public officer holders.
- Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
- Prohibit a person from lobbying public office holders without being registered.
- Impose conditions for registration, continued registration or a renewal of registration.
- Refuse to register a person, and suspend or revoke a registration.
- 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.

A review of the definition of “lobby” and “lobbying” from various lobbyist registries suggests a common view that lobbying is any communication with a public office holder about the following things:

- a by-law, bill or resolution that requires a decision by Council, a committee or other decision maker acting under municipal authority;

- the development, approval or termination of policies or programs;
- the purchase of goods and services, construction procurement, and the awarding of contracts;
- applications for planning approval, permits, service, grants and other licences or permissions;
- the award of financial contributions, grants or other financial benefits; and
- the transfer from the Region of any interest in or asset of an institution, enterprise or business.

Most Lobbyist Registry By-laws identify the following three types of lobbyists:

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

Examples of organizations that hire or retain Lobbyists include business, trade, industry, professional or voluntary organizations; a trade union or labour organization; a chamber of commerce or board of trade; and, an association, a charitable/not-for-profit organization, a coalition or an interest group.

A Lobbyist Registry is an accountability and transparency tool that involves the registration and regulation of lobbying activities. The Lobbyist Registry would apply to anyone who wishes to lobby a public office holder outside of a public forum and the Region's normal procedures and processes. Section 223.9 (3) of the Act states that the registry shall be available for public inspection in the manner and during the time that the municipality may determine.

There are three Lobbyist Registry models that could be considered for implementation:

1. Voluntary Registry – No Enforcement

- Develop a voluntary registry with no formal enforcement wherein lobbyists may choose to register with the Clerk who then posts the registrations online
- There is no complaint mechanism

2. Mandatory Registry – Self Enforcement (Self-Monitored)

- Develop a mandatory registry with no formal enforcement wherein anyone who wishes to undertake lobbying activities must register with the Clerk who then posts the registrations online
- Council members are responsible for enforcement i.e. the onus is on the member of Council not to meet with someone they consider to be a lobbyist, unless the individual has registered as a lobbyist
- Amend the Code of Conduct for Members of Council so that any interactions with un-registered lobbyists or acceptance of gifts from lobbyists can be breaches of the Code
- Any complaints regarding lobbying activity are reported to the Integrity Commissioner

3. Mandatory Registry – With Enforcement Measures

- Develop a mandatory registry with formal enforcement
- Develop a Code of Conduct for Lobbyists
- Amend the Code of Conduct for Members of Council to codify appropriate interactions with lobbyists
- A complaint regime is developed wherein individuals may file a complaint with the Registrar (could be the Integrity Commissioner) if they believe that a lobbyist is not following the Lobbyist Code of Conduct
- A by-law is enacted and offences and penalties for by-law contraventions are established

Considerations in establishing a registry would be who would be appointed as the Lobbyist Registrar; the process for registering; developing a process for reporting on lobbying activities after registering; creating and maintaining a web page with a searchable online registry; and, developing a Code of Conduct for lobbyists and a Registry by-law.

Review of Other Municipalities

Currently, municipalities in Ontario that have established a Lobbyist Registry include the Region of Peel, Toronto, Hamilton, Ottawa, Brampton, Vaughan and, more recently, Collingwood. Appendix 1 provides a comparison chart. The City of Vaughan implemented a phased-in approach for their Lobbyist Registry whereby it started as a Voluntary Registry in 2017 but transitioned to a mandatory registry with enforcement a year later in 2018.

The Town of Collingwood implemented a Lobbyist Registry in 2020; however, the first six months of the Lobbyist Registry program were considered educational and penalties for contraventions were not applied.

Municipalities who have investigated but chosen not to implement a Lobbyist Registry include the Region of Durham, Brantford, Caledon, Guelph, London, Milton and Mississauga.

For those municipalities that have chosen not to establish a Lobbyist Registry, reasons include, the costs associated with establishing and maintaining such a registry, as well as the existence of other accountability and transparency measures such as: legislation and organizational policies which address interactions between Members of Council, staff and various third parties, requirements of Purchasing by-laws, Codes of Conduct for Council and staff, Integrity Commissioner services, Declarations of Interest Registry, the Municipal Conflict of Interest Act, R.S.O. 1990, c. M. 50, and a Municipal Ombudsman/Closed Meetings Investigator.

Any mandatory registry would need to include an online registration process administered by a Lobbyist Registrar appointed by Council as well as a Code of Conduct for Lobbyists, Lobbyist By-law and would require each lobbyist to register their activity with the City prior to commencing lobbying activities or within a given timeframe after lobbying activities have taken place.

Lobbyist Registrar

Section 223.11 of the Act authorizes a municipality to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry as described in Section 223.9 (1) and the system of registration and other matters described in Section 223.9 (2). Brampton,

Ottawa, Vaughan and Peel have appointed their Integrity Commissioners as their Lobbyist Registrar.

The Lobbyist Registrar is an independent person or body that performs duties as assigned by Council such as regulating lobbying activity by overseeing public disclosure of lobbying activity and ensuring adherence to a Lobbyist Code of Conduct. The Registrar may also enforce the by-law; review, verify and approve registrations; and, deliver information and training materials. Generally, the following are duties of a Lobbyist Registrar:

- Establish and maintain a registry of Lobbyists with a record of all returns and documents filed;
- Verify information contained in any documents filed;
- Refuse to accept a filing or document that does not comply with the Lobbyist Registry;
- Remove a filing if the person who filed does not comply with their duty to provide clarifying information;
- Issue interpretation bulletins and advisory opinions with respect to enforcement, interpretation or application of the by-law to Council;
- Investigate and report to Council on investigations and make recommendations to Council on punitive measures related to Code of Conduct violations or other applicable policies; and,
- Other duties and parameters to the position as assigned by Council.

There are many considerations regarding administering a Lobbyist Registry such as responsibility for maintaining the Registry, the registration process, the process for reporting lobbyist activities, and creation and maintenance of a searchable online registry for public access. Typically, the Lobbyist Registry would include information on individuals who lobby such as:

- name and business address;
- employer, organization or association;
- who the individual is lobbying on behalf of;
- the public office holders they are lobbying;
- the general nature of the subject matter of their lobbying; and,
- the dates on which their lobbying will start and finish.

One common component of online Lobbyist Registries is a 'Frequently Asked Questions' webpage to help determine if an activity is defined as lobbying. In addition to this feature, significant public education would need to take place to ensure the public is aware of what a Lobbyist Registry is and how it may affect them.

A mandatory registry would also include provisions for inquiries and significant sanctions and penalties for Lobbyists not in compliance. The Lobbyist Registrar may be given a range of enforcement powers including the ability to suspend or revoke a registration, impose conditions on the registration, and implement sanctions or penalties on a sliding scale dependent on the number of violations.

The Lobbyist Registrar may conduct an inquiry when requested to do so by Council as a whole, by a single member of Council or by a member of the public, and may provide a public report back to Council regarding any inquiry conducted. Provisions set out in the City of Toronto model provide that the Lobbyist Registrar may prosecute breaches of the by-law under the Provincial Offences Act with fines ranging from \$25,000 up to \$100,000. Any report from a Lobbyist Registrar must be made public.

There may also be a requirement for an administrative system to allow for management of registrations as well as staff to oversee the registry. It is helpful to note that in the City of Toronto, seven full-time staff make up the Office of the Lobbyist Registrar, not including the Lobbyist Registrar; however, the City of Toronto has a dynamic Lobbyist Registry office that has been in place over a decade.

There are a number of factors to consider when reviewing the options to establish a Lobbyist Registry, in particular, balancing the costs and benefits of such an approach. There are financial and staffing implications with respect to implementing and maintaining a Lobbyist Registry as the registry would require ongoing staff and financial resources including initial and annual operating costs, appointment of a Lobbyist Registrar, creation and maintenance of an online registration system, and potential hiring of staff to administer the registry.

Existing Accountability and Transparency Measures

Niagara Region has an Accountability and Transparency Policy as well as a contract with an Integrity Commissioner who can provide advice and conduct investigations related to breaches of the Code of Conduct for Members of Council or contraventions of the Municipal Conflict of Interest Act. In addition, there are accountability and

transparency measures that already exist and are well established for elected officials including:

- Code of Conduct for Members of Council
- Integrity Commissioner Services
- Municipal Conflict of Interest Act
- Declaration of Interest Registry
- Procurement By-law
- Council's Procedural By-law

In addition, the Region has a Code of Ethics/Conflict of Interest Policy for staff that was strengthened as a result of the recommendations from the Ontario Ombudsman report "Inside Job". Additionally, the Code of Conduct could be amended to include provisions specifically related to lobbying.

Alternatives Reviewed

This report has been provided for information purposes only, as Council has options to consider related to the type of lobbyist registry model that could be implemented. Council could:

- a) consider not establishing a Lobbyist Registry and instead rely on existing policies and legislation which address concerns regarding contracting and relations with third parties such as the Procurement By-law, Accountability and Transparency Policy, Code of Ethics/Conflict of Interest Policy, Municipal Conflict of Interest Act and the Code of Conduct for Members of Council to ensure accountability and transparency.
- b) if it wishes to implement a lobbyist registry, identify the preferred model (voluntary, mandatory – self enforcement, mandatory with enforcement) and direct staff to provide a report on the costs of the proposed model, including staffing, technology requirements, processes, necessary by-law and code of conduct and options for a Lobbyist Registrar.

Relationship to Council Strategic Priorities

This report aligns to Council's strategic priority of sustainable and engaging government including promoting an organizational culture that values continuous improvement, collaboration, and innovation and enhancing communication.

Other Pertinent Reports

None.

Prepared and Recommended by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P. Eng.
Acting Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services.

Appendices

Appendix 1 Municipal Comparison Chart

Municipality	Year Established	Integrity Commissioner Appointed as Lobbyist Registrar	Penalties
Brampton	2015	Yes	First contravention: may be prohibited from lobbying for 30 days Second contravention: may be prohibited from lobbying for 90 days Third or subsequent contravention: Lobbyist Registrar to determine appropriate penalty that is greater than a penalty for a second contravention
Hamilton	2015	No	First contravention: may be prohibited from lobbying for 30 days Second contravention: may be prohibited from lobbying for 60 days Third contravention or subsequent contravention: may be prohibited from lobbying for longer than 60 days as determined by the Lobbyist Registrar
Ottawa	2012	Yes	First breach: banned from communicating with public office holders for one month Second breach: banned from communicating with public office holders for three months Third breach: Integrity Commissioner determines appropriate sanction

Peel	2017	Yes	First breach: banned from communicating with public office holders for one month Second breach: banned from communicating with public office holders for three months Third breach: Integrity Commissioner determines appropriate sanction
Toronto	2008	No	First breach: the lobbyist is banned from communicating with public office holders for one month; Second breach: the lobbyist is banned from communicating with public office holders for three months; and Third breach: the Lobbyist Registrar may ban the lobbyist from communicating with public office holders for a period of not more than two years. The Lobbyist Registrar can also prosecute breaches of the Lobbying By-law under the Provincial Offences Act (POA). Every person convicted of an offence under the Lobbying By-law is liable on a first conviction to a fine of not more than \$25,000 and on each subsequent conviction to a fine of not more than \$100,000.
Vaughan	2017	No	First offence: prohibited from lobbying until completion of information and education meeting with Lobbyist Registrar Second offence: prohibited from lobbying for 3 months Third or subsequent offences: prohibition of lobbying activities as determined by the Lobbyist Registrar
Collingwood	2020	No	First contravention: ban on communication for 30 days Second contravention: ban on communication for 60 days Third or subsequent contravention: ban on communication for longer than 60 days as determined by the Lobbyist Registrar

Subject: Considerations for a Mandatory Lobbyist Registry

Report to: Corporate Services Committee

Report date: Wednesday, May 12, 2021

Recommendations

1. That this report **BE RECEIVED** for information.

Key Facts

- The purpose of this report is to provide information respecting a mandatory lobbyist registry.
- At its meeting held on February 17, 2021, Corporate Services Committee deferred a motion respecting the implementation of a mandatory lobbyist registry to allow consultation with stakeholders.
- A lobbyist registry is considered a publicly accessible accountability and transparency tool.
- Section 223.9(1) of the Municipal Act, 2001, provides authority for establishing and maintaining a lobbyist registry.
- Section 223.11(1) of the Act also permits a municipality to appoint a “registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry and the system of registration.”
- Niagara Region has other transparency and accountability measures in place that can address concerns regarding lobbying.

Financial Considerations

As was noted in Report CLK 2-2021, should Council wish to proceed with establishing any model of Lobbyist Registry, there are initial start-up and annual operating costs that would be required for an online registry system. This would include information technology required, annual expenses required to maintain the registry and additional costs associated with appointing the Lobbyist Registrar and the hiring of additional administrative/policy support staff.

The costs would vary depending on the number of complaints and inquiries received as well as the enforcement model. The City of Vaughan, implemented a mandatory registry

with enforcement and budgeted approximately \$250,000 which included the appointment of a Lobbyist Registrar and administrative staff to maintain the Lobbyist Registry.

Analysis

At its meeting held on February 17, 2021, Corporate Services Committee considered Report CLK 2-2021 and subsequently considered the following motion:

1. *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 2022;*
2. *That specific mechanisms for the establishment of a mandatory Lobbyist Registry with enforcement **BE DEVELOPED** for implementation in 2022;*
3. *That feedback about the establishment of a mandatory Lobbyist Registry with enforcement for Niagara Region **BE SOUGHT** from Public Affairs Association of Canada; Niagara's chambers of commerce; and other pertinent associations or organizations; and*
4. *That the report(s) indicated in the first three parts of this motion **BE PROVIDED** at the May 2021 Corporate Services Committee meeting.*

The motion was deferred to allow staff to undertake consultation. Staff was further requested to provide information respecting a mandatory registry. Feedback was sought from the local chambers of commerce and the Public Affairs Association of Canada. Only the Niagara Chamber Partnership responded and that feedback is attached as Appendix 1 to this report. The Chamber requested that should Council implement a lobbyist registry, it consider the following:

- That a clear definition of lobbying be established, aligning with definitions used in other jurisdictions
- That thresholds, participation requirements, and administrative requirements be established, facilitating transparency without stifling healthy civic engagement from local businesses
- That a phased implementation approach be taken, starting with a simple and straightforward process (an annual, one-time, online registration, for example) that can be expanded in successive years

The goal of any municipal lobbying registry is to ensure that lobbying is carried out transparently and in a manner that ensures accountability as outlined in Section 223.9 to Section 223.12 of the Municipal Act, 2001, S.O. 2001, c 25 (the “Act”).

There are certain activities that, while they may seek to influence municipal behaviour, are not generally considered lobbying. These may include but are not limited to:

- Municipal staff, in their official capacity, discussing official business with Council members or other public officials;
- Individuals acting in their personal capacity to make representations before Council, Committees of Council or Local Boards;
- Providing information to a public official in response to a request;
- Members of other levels of government communicating with public officials while acting in their official capacity; and,
- Casual conversations with public officials that do not specifically pertain to municipal business.

Section 223.9 (1) of the Municipal Act, 2001, S.O. 2001, c 25 (the “Act”) authorizes 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 officer holders.

Although there is variation in the definition of “public office holder” between established Lobbyist Registry by-laws, generally, a public office holder is a member of Council; an officer or employee of the municipality; a member of a local board or a Committee established by Council and any person on his or her staff; an accountability officer appointed under the Municipal Act, 2001, such as Integrity Commissioner, Lobbyist Registrar, Ombudsman, etc.

Section 223.9(2) of the Act also authorizes the municipality to provide for a system of registration of persons who lobby public office holders and to do the following things:

- Define lobby.
- Require persons who lobby public officer holders to file returns and give information to the municipalities.
- Specify the returns to be filed and the information to be given to the municipality by persons who lobby public officer holders and specify the time within which the returns must be filed and the information provided.
- Exempt persons from the requirement to file returns and provide information.

- Specify activities with respect to which the requirement to file returns and provide information that does not apply.
- Establish a code of conduct for persons who lobby public officer holders.
- Prohibit former public office holders from lobbying current public office holders for the period of time specified in the by-law.
- Prohibit a person from lobbying public office holders without being registered.
- Impose conditions for registration, continued registration or a renewal of registration.
- Refuse to register a person, and suspend or revoke a registration.
- 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.

A review of the definition of “lobby” and “lobbying” from various lobbyist registries suggests a common view that lobbying is any communication with a public office holder about the following things:

- a by-law, bill or resolution that requires a decision by Council, a committee or other decision maker acting under municipal authority;
- the development, approval or termination of policies or programs;
- the purchase of goods and services, construction procurement, and the awarding of contracts;
- applications for planning approval, permits, service, grants and other licences or permissions;
- the award of financial contributions, grants or other financial benefits; and
- the transfer from the Region of any interest in or asset of an institution, enterprise or business.

Most Lobbyist Registry By-laws identify the following three types of lobbyists:

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

A Lobbyist Registry is an accountability and transparency tool that involves the registration and regulation of lobbying activities. The Lobbyist Registry would apply to anyone who wishes to lobby a public office holder outside of a public forum and the Region's normal procedures and processes. Section 223.9 (3) of the Act states that the registry shall be available for public inspection in the manner and during the time that the municipality may determine.

There are two options for consideration should Council wish to implement a mandatory lobbyist registry.

Mandatory Registry – Self Enforcement (Self-Monitored)

- Develop a mandatory registry with no formal enforcement wherein anyone who wishes to undertake lobbying activities must register with the Clerk who then posts the registrations online
- Council members are responsible for enforcement i.e. the onus is on the member of Council not to meet with someone they consider to be a lobbyist, unless the individual has registered as a lobbyist
- Amend the Code of Conduct for Members of Council so that any interactions with un-registered lobbyists or acceptance of gifts from lobbyists can be breaches of the Code
- Any complaints regarding lobbying activity are reported to the Integrity Commissioner

Mandatory Registry – With Enforcement Measures

- Develop a mandatory registry with formal enforcement
- Develop a Code of Conduct for Lobbyists
- Amend the Code of Conduct for Members of Council to codify appropriate interactions with lobbyists
- A complaint regime is developed wherein individuals may file a complaint with the Registrar (could be the Integrity Commissioner) if they believe that a lobbyist is not following the Lobbyist Code of Conduct
- A by-law is enacted and offences and penalties for by-law contraventions are established

Should a mandatory registry with enforcement be established, a Lobbyist Registrar would need to be retained and processes would need to be formalized including the process for registering; reporting on lobbying activities after registering; creating and maintaining a web page with a searchable online registry; and, developing a Code of Conduct for lobbyists and a Registry by-law.

Lobbyist Registrar

Section 223.11 of the Act authorizes a municipality to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry as described in Section 223.9 (1) and the system of registration and other matters described in Section 223.9 (2). Brampton, Ottawa, Vaughan and Peel have appointed their Integrity Commissioners as their Lobbyist Registrar.

The Lobbyist Registrar is an independent person or body that performs duties as assigned by Council such as regulating lobbying activity by overseeing public disclosure of lobbying activity and ensuring adherence to a Lobbyist Code of Conduct. The Registrar may also enforce the by-law; review, verify and approve registrations; and, deliver information and training materials. Generally, the following are duties of a Lobbyist Registrar:

- Establish and maintain a registry of Lobbyists with a record of all returns and documents filed;
- Verify information contained in any documents filed;
- Refuse to accept a filing or document that does not comply with the Lobbyist Registry;
- Remove a filing if the person who filed does not comply with their duty to provide clarifying information;
- Issue interpretation bulletins and advisory opinions with respect to enforcement, interpretation or application of the by-law to Council;
- Investigate and report to Council on investigations and make recommendations to Council on punitive measures related to Code of Conduct violations or other applicable policies; and,
- Other duties and parameters to the position as assigned by Council.

There are many considerations regarding administering a Lobbyist Registry such as responsibility for maintaining the Registry, the registration process, the process for reporting lobbyist activities, and creation and maintenance of a searchable online registry for public access. Typically, the Lobbyist Registry would include information on individuals who lobby such as:

- name and business address;
- employer, organization or association;
- who the individual is lobbying on behalf of;
- the public office holders they are lobbying;
- the general nature of the subject matter of their lobbying; and,
- the dates on which their lobbying will start and finish.

One common component of online Lobbyist Registries is a 'Frequently Asked Questions' webpage to help determine if an activity is defined as lobbying. In addition to this feature, significant public education would need to take place to ensure the public is aware of what a Lobbyist Registry is and how it may affect them.

A mandatory registry would also include provisions for inquiries and significant sanctions and penalties for Lobbyists not in compliance. The Lobbyist Registrar may be given a range of enforcement powers including the ability to suspend or revoke a registration, impose conditions on the registration, and implement sanctions or penalties on a sliding scale dependent on the number of violations.

The Lobbyist Registrar may conduct an inquiry when requested to do so by Council as a whole, by a single member of Council or by a member of the public, and may provide a public report back to Council regarding any inquiry conducted. Provisions set out in the City of Toronto model provide that the Lobbyist Registrar may prosecute breaches of the by-law under the Provincial Offences Act with fines ranging from \$25,000 up to \$100,000. Any report from a Lobbyist Registrar must be made public.

There may also be a requirement for an administrative system to allow for management of registrations as well as staff to oversee the registry. It is helpful to note that in the City of Toronto, seven full-time staff make up the Office of the Lobbyist Registrar, not including the Lobbyist Registrar; however, the City of Toronto has a dynamic Lobbyist Registry office that has been in place over a decade.

There are a number of factors to consider when reviewing the options to establish a Lobbyist Registry, in particular, balancing the costs and benefits of such an approach. There are financial and staffing implications with respect to implementing and maintaining a Lobbyist Registry as the registry would require ongoing staff and financial resources including initial and annual operating costs, appointment of a Lobbyist

Registrar, creation and maintenance of an online registration system, and potential hiring of staff to administer the registry.

Alternatives Reviewed

This report has been provided for information purposes only, as Council has the option to consider if it would like to implement a mandatory lobbyist registry. Council could:

a) consider not establishing a Lobbyist Registry and instead rely on existing policies and legislation which address concerns regarding contracting and relations with third parties such as the Procurement By-law, Accountability and Transparency Policy, Code of Ethics/Conflict of Interest Policy, Municipal Conflict of Interest Act and the Code of Conduct for Members of Council to ensure accountability and transparency.

b) if it wishes to implement a mandatory lobbyist registry (mandatory – self enforcement or mandatory with enforcement) and direct staff to provide a report on the costs of the proposed model, including staffing, technology requirements, processes, necessary by-law and code of conduct and options for a Lobbyist Registrar.

Relationship to Council Strategic Priorities

This report aligns to Council's strategic priority of sustainable and engaging government including promoting an organizational culture that values continuous improvement, collaboration, and innovation and enhancing communication.

Other Pertinent Reports

CLK 2-2021 Considerations for a Lobbyist Registry

Prepared by and Recommended by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P.Eng.
Acting Chief Administrative Officer

Appendices

Appendix 1 Correspondence from Niagara Chamber Partnership

NIAGARA CHAMBER PARTNERSHIP

Unlocking the power of a Niagara-wide network



April 29, 2021

Regional Clerk Ann-Marie Norio
Regional Municipality of Niagara
1815 Sir Isaac Brock Way
Thorold ON L2V 4T7

RE: CONSIDERATIONS FOR A LOBBYIST REGISTRY
Recommendations from the Niagara Chamber Partnership

Dear Ms. Norio,

On behalf of the Niagara Chamber Partnership (representing chambers/boards of trade in the municipalities of Fort Erie, Grimsby, Lincoln, Niagara Falls, Niagara-on-the-Lake, Pelham, Port Colborne, Thorold, Wainfleet, Welland, and West Lincoln), we are submitting the following recommendations for Regional Council's consideration:

- That a clear definition of lobbying be established, aligning with definitions used in other jurisdictions
- That thresholds, participation requirements, and administrative requirements be established, facilitating transparency without stifling healthy civic engagement from local businesses
- That a phased implementation approach be taken, starting with a simple and straight-forward process (an annual, one-time, online registration, for example) that can be expanded in successive years

Thank you for the opportunity to provide feedback and recommendations as Regional Council builds on initiatives that increase public accountability and transparency.

Sincerely,

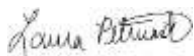




Fort Erie Chamber of Commerce



Grimsby Chamber of Commerce



Lincoln Chamber of Commerce



Niagara Falls Chamber of Commerce



Niagara-on-The-Lake Chamber of Commerce



Port Colborne-Wainfleet Chamber of Commerce



Niagara Board of Trade and Commerce



Welland/Pelham Chamber of Commerce



West Lincoln Chamber of Commerce



Subject: Implementation of a Mandatory Lobbyist Registry

Report to: Corporate Services Committee

Report date: Wednesday, November 10, 2021

Recommendations

1. That the implementation of a Lobbyist Registry Program for Niagara Region, **BE APPROVED**, subject to approval of funding for a Lobbyist Registrar as part of the 2022 budget process;
2. That subject to approval of funding as part of the 2022 budget process:
 - a) the draft by-law (Appendix 1 to Report CLK 12-2021) to establish and maintain a Lobbyist Registry **BE APPROVED** in principle;
 - b) the draft Lobbyist Code of Conduct (Appendix 2 to Report CLK 12-2021) **BE APPROVED** in principle;
 - c) the first six months of implementation of the Lobbyist Registry following passage of the by-law be considered an education period where penalties and sanctions will not be applied;
 - d) the Integrity Commissioner **BE APPOINTED** as the Lobbyist Registrar;
 - e) the Regional Clerk **BE AUTHORIZED** to develop the necessary forms and procedures related to the Lobbyist Registry program including a complaint intake process;
 - f) That the Code of Conduct for Members of Council **BE AMENDED** to include provisions regarding the obligations of Council under the Lobbyist Registry By-law; and
 - g) That the Regional Clerk **BE DIRECTED** to present the by-law to establish and maintain a Lobbyist Registry for passage by Council at its next meeting after budget approval.

Key Facts

- The purpose of this report is to seek Council's approval for the implementation of a Lobbyist Registry program.

- At its meeting held on May 12, 2021, the Corporate Services Committee considered Report CLK 4-2021 and directed staff to prepare a report on a mandatory Lobbyist Registry with enforcement.
- A lobbyist registry is considered a publicly accessible accountability and transparency tool.
- Section 223.9(1) of the Municipal Act, 2001, provides authority for establishing and maintaining a lobbyist registry.
- Section 223.11(1) of the Act also permits a municipality to appoint a “registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry and system of registration”.
- The implementation of a lobbyist registry would supplement other transparency and accountability measures that the Region already has in place to address concerns regarding lobbying such as the Procurement By-law, Accountability and Transparency Policy, Code of Ethics/Conflict of Interest Policy, Municipal Conflict of Interest Act and the Code of Conduct for Member of Council.

Financial Considerations

As Council's direction is to proceed with a mandatory registry, there will be costs for a Lobbyist Registrar. An operating budget business case for \$50,000 has been included for Council's consideration as part of the 2022 budget process. These monies are anticipated to cover the expenses for a Lobbyist Registrar who will be responsible to investigate complaints related to alleged contraventions of the Lobbyist Registry By-law and Lobbyist Code of Conduct but will be dependent on the number of complaints received and oversee compliance with the program.

Staff have confirmed that supporting technology requirements can be handled internally at no additional cost and current staffing levels can accommodate the maintenance of the Registry subject to the number of registrations that may be received and the time spent responding to inquiries.

Analysis

At its meeting held on May 20, 2021, Regional Council approved the following recommendation of the Corporate Services Committee:

That Report CLK 4-2021, dated May 12, 2021, respecting Mandatory Lobbyist Registry **BE RECEIVED**; and

That staff **BE DIRECTED** to provide a report on the costs of the establishment of a mandatory Lobbyist Registry with enforcement, including staffing, technology requirements, processes, necessary by-law and Code of Conduct changes, and options for a Lobbyist Registrar and that considerations for the establishment of a Lobbyist Registry form part of the budget proposals for 2022.

A Lobbyist Registry is an accountability and transparency tool that involves the registration and regulation of lobbying activities. The Lobbyist Registry would apply to anyone who wishes to lobby a public office holder outside of a public forum and the Region's normal procedures and processes. Section 223.9 (3) of the Act states that the registry shall be available for public inspection in the manner and during the time that the municipality may determine.

Further to the direction to undertake consultation, staff received feedback from the Niagara Chamber Partnership requesting that the establishment of any lobbyist registry consider the following:

- That a clear definition of lobbying be established, aligning with definitions used in other jurisdictions
- That thresholds, participation requirements, and administrative requirements be established, facilitating transparency without stifling healthy civic engagement from local businesses
- That a phased implementation approach be taken, starting with a simple and straightforward process (an annual, one-time, online registration, for example) that can be expanded in successive years

The goal of any municipal lobbying registry is to ensure that lobbying is carried out transparently and in a manner that ensures accountability as outlined in Sections 223.9 to 223.12 of the Municipal Act, 2001, S.O. 2001, c 25 (the "Act").

Chief Justice Bellamy, who recommended the first municipal lobbyist registry as part of her 2005 Toronto computer leasing inquiry, states that although lobbyists are in the business of exerting influence over a decision, it does not mean that outcome is necessarily against the public's interest. Justice Bellamy states that "what is against the public's interest is when lobbying occurs in secret."

The Bellamy Report states that "lobbying is best understood broadly as an organized effort to influence the development or ultimate fate of anything the government does: pass a law, develop a policy or program, award a contract, or give away money".

Generally speaking, a lobbyist works on behalf of third party who would directly benefit from the outcome of a specific decision.

Lobbying, as defined in the draft by-law is defined as: means any communication with a public office holder by an individual who is paid or represents a business or financial interest with the goal of trying to influence any legislative action including the 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 staff member acting under delegated authority.

From the practical standpoint of a lobbyist registry, is important to note that lobbying can take place via numerous mediums (i.e. telephone calls, emails, in-person meetings, text messages, etc.) and can occur whenever there is a meaningful exchange with someone in public office that materially advances the position of a lobbyist. Lobbying activities can happen in both formal and informal settings, and should never involve the exchange of any goods, services or financial compensation in return for the support of the elected official.

There are certain activities that, while they may seek to influence municipal behaviour, are not generally considered lobbying. These may include but are not limited to:

- Municipal staff, in their official capacity, discussing official business with Council members or other public officials;
- Individuals acting in their personal capacity to make representations before Council, Committees of Council or Local Boards;
- Providing information to a public official in response to a request;
- Advocacy activities which are generally carried out by community groups and associations and are communications that state a position for a general regional benefit;
- Members of other levels of government communicating with public officials while acting in their official capacity; and,
- Casual conversations with public officials that do not specifically pertain to municipal business.

Proposed Lobbyist Registry Program

Section 223.9 (1) of the Act authorizes 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 officer holders.

The Act contains provisions related to the establishment of a registry that allow a registry to be customized based on need, provided there is compliance with the general requirements.

Staff propose the implementation of a registry in the form of an online searchable tool that is accessible to the public for people to register their communication activity with public office holders if it falls under the definition of “lobbying” as outlined in the Lobbyist Registry By-law attached as Appendix 1.

A user-friendly, accessible tool has been developed which would be available on Niagara Region’s website. The tool will collect information from the lobbyists as they will be required to complete a submission form for review by Clerk’s Office staff for verification. Upon approval, the information will be posted to the website. A screen shot of the Registry Tool can be found at Appendix 3. A dedicated webpage will house the by-law, lobbyist code of conduct, frequently asked questions as well as the Registry. Subject to Council approval of the program, a complaint form and procedure will also be posted on this webpage. This complaint form and procedure will be similar to the process for complaints submitted regarding alleged code of conduct violations.

Within five (5) days of any lobbying activity, a lobbyist will be required to read and acknowledge reading the Lobbyist By-law and accompanying Code of Conduct and submit their name, title, business information, date of lobbying and provide particulars related to the issue being lobbied. The information will be reviewed by staff and if all necessary fields are complete, will be uploaded to the Lobbyist Registry on the website where it will be available for the public to view. If the form submitted is incomplete or other follow up is required, staff may refer the submission to the Lobbyist Registrar for further review. Staff will endeavour to ensure the completeness of the information submitted but may post incomplete submissions in the interest of transparency.

The online tool will be available for lobbyists to register their lobbying activities and the public and individuals who may be impacted by the program to browse and familiarize themselves with the tool, with no penalties being enforced during the first six months the Registry is active.

One common component of online Lobbyist Registries, which will be implemented, is a ‘Frequently Asked Questions’ webpage to help individuals determine if an activity is defined as lobbying. In addition to this feature, a robust communications plan would be developed including education to ensure the public is aware of what a Lobbyist Registry is and how it may affect them.

To help support elected officials in their potential communications with lobbyists, Councillors will be provided “business cards” that may be handed out in the event of in-person discussions with a lobbyist. These cards will remind the lobbyist of the need to register the communication online, and the Region’s commitment to accountability and transparency.

A mandatory Registry will also include provisions for inquiries and sanctions and penalties for Lobbyists not in compliance. The Lobbyist Registrar will be given a range of enforcement powers including the ability to suspend or revoke a registration, impose conditions on the registration, and implement sanctions or penalties on a sliding scale dependent on the number of violations.

Lobbyist Registrar

Section 223.11 of the Act authorizes a municipality to appoint a registrar who is responsible for performing in an independent manner the functions assigned by the municipality with respect to the registry as described in Section 223.9 (1) and the system of registration and other matters described in Section 223.9 (2). Brampton, Ottawa, Vaughan and Peel have appointed their Integrity Commissioners as their Lobbyist Registrar. Staff are recommending that Niagara Region follow a similar approach and will include the duties of a Lobbyist Registrar as part of the RFP for an Integrity Commissioner that will be issued before year-end. The appointment of the Lobbyist Registrar will occur at the same time as the appointment of the Integrity Commissioner.

Inquiries and Sanctions

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 by a member of the public. The inquiry would be related to compliance with the requirements of the lobbyist registry, or the Lobbyist Code of Conduct. Inquiries must be conducted confidentially. Subject to Council approval and funding, staff will develop complaint procedures and processes similar to the process in place for Integrity Commissioner complaints.

Section 223.9(1) of the Act allows for a municipality 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”. These tools allow a municipality to 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.

The Lobbyist Registrar may provide a public report back to Council regarding any inquiry conducted and penalty imposed. Any report from a Lobbyist Registrar must be made public.

The Registrar may impose a temporary ban on lobbying if it is deemed that the requirements of the by-law and code of conduct have not been met. Staff have proposed that the following penalty structure be implemented after the six (6) month education period which is similar to the penalties in place by other municipalities.

First Offence:	Prohibition of lobbying activities for a 30 day period
Second Offence:	Prohibition of lobbying activities for a 60 day period
Third Offence:	Prohibition of lobbying activities as determined by the Lobbyist Registrar

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

To support the effectiveness of the Lobbyist Registrar, there is a need to establish some obligations under the Lobbyist Registry By-law for Public Office Holders, namely Regional Councillors, officers or employees of the Region in a management position or with decision-making powers, members of Committees established by Council, any accountability officers appointed under the Muncipl Act, 2001 and individuals under contract with the Region. It is recommended that any Public Office Holder will cease any lobbying related communications with a lobbyist who is prohibited from lobbying and report such lobbying to the Registrar. As well, Public Office Holders will be responsible for providing information in a timely manner to the Lobbyist Registrar with regards to an inquiry being conducted by the Registrar.

Lobbyist Code of Conduct

Lobbyists are expected to comply with specific standards of behaviour when lobbying public office holders. The Code of Conduct will ensure that all lobbyists are aware of the responsibilities and expected conduct while conducting lobbying. A proposed Lobbyist Code of Conduct is attached as Appendix 2.

Alternatives Reviewed

This report has been provided at the direction of Council to establish a mandatory Lobbyist Registry. Council could consider not establishing a Lobbyist Registry and instead rely on existing policies and legislation which address concerns regarding contracting and relations with third parties such as the Procurement By-law, Accountability and Transparency Policy, Code of Ethics/Conflict of Interest Policy, Municipal Conflict of Interest Act and the Code of Conduct for Members of Council to ensure accountability and transparency.

Relationship to Council Strategic Priorities

This report aligns to Council's strategic priority of sustainable and engaging government including promoting an organizational culture that values continuous improvement, collaboration, and innovation and enhancing communication.

Other Pertinent Reports

CLK 2-2021	Considerations for a Lobbyist Registry
CLK 4-2021	Considerations for a Mandatory Lobbyist Registry

Prepared and Recommended by:
Ann-Marie Norio
Regional Clerk

Submitted by:
Ron Tripp, P. Eng.
Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal and Court Services.

Appendices

Appendix 1	Draft Lobbyist Registry By-law
Appendix 2	Draft Lobbyist Code of Conduct
Appendix 3	Draft Registry Tool for Website

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. <>

A BY-LAW TO ESTABLISH AND MAINTAIN A LOBBYIST
REGISTRY FOR THE REGIONAL MUNICIPALITY OF
NIAGARA

WHEREAS section 223.9 of the Municipal Act S.O., 2001, Chapter 25, as amended, (the Act) authorizes The Regional Municipality of Niagara to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who lobby The Regional Municipality of Niagara's Public Office Holders;

WHEREAS section 223.11 of the Act authorizes The Regional Municipality of Niagara to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the Region of Niagara with respect to the Lobbyist Registry;

WHEREAS sections 8, 9, and 10 of the Act authorize The Regional Municipality of Niagara 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,

WHEREAS a Lobbyist Registry is considered a publicly accessible accountability and transparency tool;

WHEREAS it is reasonable for Members of Council and the public at large to know the nature and amount of legitimate lobbying of local government; and

WHEREAS Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who lobby the Region of Niagara Public Office Holders.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

PART I DEFINITIONS

1. For the purposes of this By-law:

"Communication" means any substantive form of communication including a formal meeting, email, letter, phone call or meaningful dialogue or exchange;

"Council" means the Council of The Regional Municipality of Niagara;

"Lobby" or "Lobbying" means any Communication with a Public Office Holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action 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 staff member acting under delegated authority;

"Lobbyist" means:

- a) **"Consultant Lobbyist"**: an individual who Lobbies for payment on behalf of a client (another individual, a business, partnership, organization or other entity);
- b) **"In-house Lobbyist"**: an individual who is an employee, partner or sole proprietor and who Lobbies on behalf of his or her own employer, business or other entity; and
- c) **"Voluntary Unpaid Lobbyist"**: an individual who Lobbies without payment on behalf of an individual, business or any other for-profit entity for the benefit of the interests of the individual, business or for-profit entity;

"Lobbyist Registrar" means the individual appointed by Council in accordance with section 223.11 of the Municipal Act, 2001;

"Lobbyist Registry" means a system of registration in which shall be kept the Registrations and Returns of persons who Lobby Public Office Holders and which shall include such information as required pursuant to this By-law;

"Public Office Holder" means:

- a) A member of Regional Council;
- b) An officer or employee of The Regional Municipality of Niagara;
- c) A member of a local board or committee established by Council;
- d) Any accountability officer, appointed under the Municipal Act, 2001, including but not limited to the Integrity Commissioner, the Lobbyist Registrar, Ombudsman, and/or Closed Meeting Investigator;
- e) Individuals under contract with the Region providing consulting or other advisory services to the Region related to matters with budgetary or operational impacts during the term of their contract.

"Region" means The Regional Municipality of Niagara;

"Registration" means a first filing by a Lobbyist regarding a subject matter he or she intends to Lobby on as set out in subsection 8(1); and

"Return" means an update of a Registration filed by a Lobbyist as set out in subsection 8.2.

PART 2 ESTABLISHMENT OF A LOBBYIST REGISTRY

2. Lobbyist Registry

- 2.1 The Regional Clerk shall develop and maintain a Lobby Registry under the oversight of the Lobbyist Registrar, in which shall be kept all Registrations and Returns filed under this by-law.
- 2.2 The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.

3. Exempted Persons and Organizations

- 3.1 The following persons and organizations shall not be considered Lobbyists when carrying out official duties on behalf of and authorized by the public sector bodies they represent:
- a) Government or public sector not including the Region and other municipal bodies:
 - i. Members of the Senate or House of Commons of Canada, the legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of the members
 - ii. 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
 - iii. 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
 - iv. 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 Region, persons on staff of the members, or officers or employees of the municipality or local board

- v. 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
- b) Officials and employees of the Region and other municipal bodies:
 - i. Public Office Holders
 - ii. Members or employees of a local board of the Region
 - iii. Members of an advisory committee appointed by Council
- c) Other public sector:
 - i. Persons Communicating on behalf of local school boards
 - ii. Persons Communicating on behalf of healthcare institutions

4. Exempted Activities

4.1 Lobbying does not include:

- a) Communication that occurs during a meeting of Regional Council or a Committee of Council;
- b) Communication that occurs during a public process such as a public meeting, hearing, consultation, open house or media event held or sponsored by the Region or a Public Office Holder or related to an application;
- c) Communication that is restricted solely to a request for information;
- d) Communication that is restricted solely to compliments or complaints about a service or program;
- e) Communication with a Public Office Holder by an individual on behalf of an individual, business or other entity about:

- i. the enforcement, interpretation or application of any Act or by-law, save and except the Region's Procurement By-law, by the Public Office Holder and with respect to the individual, business or other entity;
 - ii. the implementation or administration of any policy, program, directive or guideline by the Public Office Holder and with respect to the individual, business or other entity;
 - iii. a personal matter of the individual, business or other entity 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 other entity;
- f) 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:
 - i. with a Public Office Holder 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;
 - ii. with an employee of the Region if the Communication is part of the normal course of the approval process;
 - iii. with an employee of the Region if the Communication is with respect to planning or development applications and the officer or employee has a role in the processing of a planning or development application during the formal pre-application consultation, the filing of the application and the application review process, including the preparation of development agreements;
- g) submitting a bid proposal as part of the procurement process and any Communication with designated employees of the Region as permitted in the procurement policies and procurement documents of the Region;
- h) Communication with a Public Office Holder by an individual on behalf of an individual, business or other entity in direct response to a written request from the Public Office Holder;
- i) Communication to a Public Office Holder by a constituent, or an individual on behalf of a constituent on a general neighbourhood or public policy issue;

- j) Communication directly related to those Region-initiated consultative meetings and processes where an individual is participating as an interested party; Communication for or against a policy or program that state a position where the primary focus is a broad community benefit or detriment, whether Region-wide or local, and where that position would have no direct, indirect or perceived benefit to a business or financial interest of the individual, business or other entity on whose behalf the Communication is undertaken;
- k) Communication regarding a business or financial interest by not-for-profit businesses or other not-for-profit entity where such business or entity has no paid staff.

5. Prohibitions

- 5.1 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.
- 5.2 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.
- 5.3 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 of the Region.
- 5.4 No person will Lobby a Public Office Holder unless they are Registered in accordance with this By-law.
- 5.5 No person will provide false or incomplete information in their Registration or Return.
- 5.6 No Lobbyist will offer or provide goods, services or financial compensation in return for support as a part of their Lobbying.

6. Lobbyist Registrar

- 6.1 The Region may appoint an Integrity Commissioner as the Lobbyist Registrar in accordance with section 223 of the Municipal Act, 2001.
- 6.2 The Lobbyist Registrar has the authority to conduct inquiries in respect of a request made by Council, a Member of Council or by a member of the public about compliance with the Lobbyist Registry By-law or the Lobbyist Code of Conduct (attached as Schedule "A"), as set out under section 223.12 of the Municipal Act, 2001.
- 6.3 The Lobbyist Registrar's responsibilities include:
- a) overseeing the administration of the Lobbyist Registry system;
 - b) providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
 - c) conducting inquiries in respect of a request made about compliance with this By-law, which may include requesting that a Public Office Holder gather information concerning Lobbying of him or her and provide that information to Lobbyist Registrar;
 - d) suspending or revoking a Registration;
 - e) enforcing this By-law;
 - f) advising Regional Council on Lobbying matters and recommending improvements to this By-law; and
 - g) providing an annual report to Regional Council and any other reports as the Lobbyist Registrar considers appropriate.

7. Responsibilities of a Public Office Holder

- 7.1 A Public Office Holder's responsibilities include:
- a) responding, in a timely and complete manner, to a request from the Lobbyist Registrar under subsection 6.2(c) to gather and provide information; and

- b) ending, as soon as practicable, Lobbying by a Lobbyist who is prohibited from Lobbying and reporting, in a timely manner, such Lobbying to the Lobbyist Registrar.
- 7.2 Except when responding to a request from the Lobbyist Registrar under subsection 6.3(c), a Public Office Holder's responsibilities under this By-law do not include gathering or providing information concerning Lobbying of him or her.

PART 3: REGISTRATION AND REPORTING OF LOBBYING ACTIVITY

8. Registrations and Returns

- 8.1 All Lobbyists shall file a Return regarding Lobbying Communication within five (5) business days of the first Communication occurring. The Registration shall include:
- a) their name, address and contact information;
 - b) if they are a Consultant Lobbyist, In-house Lobbyist or Voluntary Unpaid Lobbyist;
 - c) the name of the individual, client or other entity, including all business names under which the individual, client or other entity is operating, on whose behalf he or she is Lobbying;
 - d) the name of the individual or individuals they are Lobbying;
 - e) the subject matter and date on which the Lobbying will start and finish, with the date on which the Lobbying finishes being no more than one year after the date on which the Lobbying starts; and
 - f) any such further information as the Lobbyist Registrar may require.
- 8.2 A Lobbyist shall file a Return updating any change or addition to information provided under Section 8.1 in his or her Registration.
- 8.3 If Lobbying continues for more than one year, a Lobbyist shall file a new Registration for each year the lobbying continues.
- 8.4 The Lobbyist is solely responsible for meeting the requirements with respect to Registrations and Returns set out in this section.

- 8.5 Lobbyists shall read and adhere to the Code of Conduct for Lobbyists during all Lobbying activities with Public Office Holders
- 8.6 The Lobbyist Code of Conduct is attached hereto as Schedule "A" and forms part of this By-law.

PART 4: ENFORCEMENT AND PENALTIES

9. Penalties

- 9.1 The Registrar may impose a temporary ban on Lobbying in accordance with the following scheme if the Registrar finds that the requirements of this By-law and Code of Conduct have not been met:
- a) for 30 days for a first contravention;
 - b) for 60 days for a second contravention;
 - c) for a period of time longer than 60 days as determined by the Lobbyist Registrar for a third or subsequent contravention.
- 9.2 When the Lobbyist Registrar prohibits an individual from Lobbying, the Lobbyist Registrar:
- a) shall notify the individual and all Public Office Holders of the prohibition and the reason for the prohibition in such manner as the Lobbyist Registrar determines; and
 - b) shall post the prohibition and the reason for the prohibition on the website.
- 9.3 The Lobbyist Registrar may remove a Registration or Return from the Lobbyist Registry if the Lobbyist Registrar finds that the individual who filed the Registration or Return has contravened this By-law.
- 9.4 When a Registration or Return is removed from the Lobbyist Registry, the individual who filed the Registration or Return is deemed, for the purposes of his or her existing and future obligations under this By-law, not to have filed the Registration or Return.
- 9.5 In accordance with subsection 223.12(7) of the Municipal Act, 2001, should the Lobbyist Registrar determine, when conducting an inquiry, that there are reasonable grounds to believe that an individual has contravened a provincial Act

or the Criminal Code of Canada, the Lobbyist Registrar shall immediately refer the matter to appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

PART 5: TITLE, SCOPE AND INTERPRETATION

10. This By-law shall be known as the Lobbyist Registry By-law.
11. In the event of a conflict between the provisions of this by-law and the provisions of another by-law of The Regional Municipality of Niagara the provisions of the more restrictive enactment shall prevail.
12. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision or part thereof, shall be deemed to be severed, and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.
13. That this By-law shall come into force and effect on the date on which it is passed, with the exception of Part 4: Enforcement and Penalties, which is to come into force and effect six (6) months after.

THE REGIONAL MUNICIPALITY OF NIAGARA

James Bradley, Regional Chair

Ann-Marie Norio, Regional Clerk

Passed: <date>

PROPOSED SCHEDULE “A”

Lobbyist Code of Conduct

Lobbyists are expected to comply with the standards of behaviour for lobbyists and the conduct of lobbying activities set out in this Code of Conduct when lobbying public office holders.

1. Honesty

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

2. Openness

Lobbyists shall be open and transparent about their lobbying activities at all times, including identifying in all communications with public office holders that are lobbying, while maintaining and respecting necessary confidentiality.

3. Disclosure of Identity and Purpose

(a) Lobbyists communicating with public office holders shall, at all times, disclose the identity of the individual, business or organization on whose behalf they are lobbying, as well as the subject matter of the communication.

(b) Lobbyists shall register their name and company information and all lobbying activity with public office holders in accordance with the provisions of the Lobbyist Registry By-law.

4. Information and Confidentiality

(a) Lobbyists shall inform their client, employer or organization of the obligations under the Lobbyist Registry By-law and their obligation to adhere to the Lobbyists' 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 or potential 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 Region.

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.
- (c) Lobbyists will not offer any goods, services or financial compensation in return for support as a part of their lobbying.

7. Restriction on Communication

- (a) Lobbyists shall not communicate with public office holders in relation to a procurement process except as permitted by the Region'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 period of time.

Register as a Lobbyist

[INTRO TEXT HERE]

Contact Information

* First Name

* Last Name

* Name of organization on behalf of whom you are contacting Niagara Region

* Address

* Phone

xxx-xxx-xxxx

* Email

Figure 1

* What kind of Lobbyist are you?

- ☒ Consultant
☐ In-house
☐ Voluntary unpaid

* Subject matter

Select one... ▼

* Range from

* Range from

* Brief description of your communication

* Have you held a position with Niagara Region within the last 12 months?

- ☐ Yes
☒ No

Persons Lobbied

* First name

* Last name

* Position

[+ Add a person](#)

Lobbyist Registry

[INTRO TEXT HERE]

Name	Organization	Town / city	Type	Person(s) lobbied	Subject	Dates	Description
Tony Stark	Avengers	St. Catharines	Consultant	Steve Rogers, Bruce Banner, Thor	Economic development	August 1 - 7, 2021	test

Subject: Extension of Education Period for Implementation of Lobbyist Registry

Report to: Regional Council

Report date: Thursday, September 22, 2022

Recommendations

1. That the educational period for the application of penalties and sanctions of the Lobbyist Registry By-law **BE EXTENDED** for an additional six (6) months;
2. That the necessary by-law to enact this extension **BE PRESENTED** to Council for consideration.

Key Facts

- The purpose of this report is to seek Council's approval to extend the educational period for the application of penalties and sanctions for contraventions of the Lobbyist Registry By-law.
- At its meeting held on April 14, 2022, Regional Council approved By-law 2022-24, being a By-law to Establish and Maintain a Lobbyist Registry for The Regional Municipality of Niagara.
- The by-law included a provision of an educational period of six (6) months before the enforcement of any penalties and sanctions in order to provide an opportunity for communication and education to the public regarding this initiative and to allow staff the necessary time to undertake a competitive RFP process for Lobbyist Registrar services.
- Due to the RFP process being cancelled as a result of none of the proponents passing the technical benchmark, staff are recommending an extension of the educational period to permit another competitive procurement process to be initiated.

Financial Considerations

Funding related to the Lobbyist Registrar has been included in the 2023 budget and there may be cost-savings achieved as a result of the extension of the educational

period as complaints would not be received during this period; however, any cost-saving would be dependent on the number of complaints received.

Analysis

At its meeting held on November 18, 2021, Regional Council approved the recommendation of its Corporate Services Committee to implement a Lobbyist Registry Program for Niagara Region subject to the approval of funding in the 2022 budget. The funding for the Lobbyist Registry Program was approved as part of the 2022 budget process.

The recommendation to approve implementation of the Registry included a provision that the first six months following passage of the By-law would be an education period where penalties and sanctions would not be applied. The Lobbyist Registry By-law includes that the Enforcement and Penalties section will come into force and effect six (6) months after the effective date of the By-law which was April 14, 2022.

This period was to provide an opportunity to educate potential lobbyists on the duties and responsibilities when lobbying public office holders. In addition, it was also to permit the undertaking of a competitive procurement process for Lobbyist Registrar Services in conjunction with an RFP for Integrity Commissioner Services.

Request for Proposal Contract 2022-RFP-43 was issued to the market on July 26, 2022 via Niagara Region's Electronic Bidding Platform and closed on August 10, 2022. Unfortunately the RFP process was cancelled as a result of no proponents passing the technical benchmark.

The Municipal Act, 2001, authorizes municipalities to establish lobbyist registries. Although it is compulsory in Toronto, only a handful of other municipalities have created lobbyist registries, including the cities of Brampton, Hamilton, Ottawa, and Vaughan, the Town of Collingwood, and the Region of Peel. In addition the City of Burlington has recently initiated a voluntary registry. Many of these municipalities either retain a full time Lobbyist Registrar, have someone acting as both their Integrity Commissioner and Lobbyist Registrar or have their Integrity Commissioner undertake this work. Given that many municipalities are just embarking on establishing registries the market for lobbyist registrar services is small and many Integrity Commissioners do not do lobbyist work.

As the Lobbyist Registry By-law contains explicit language with respect to the role and responsibilities of the Lobbyist Registrar to conduct inquiries regarding compliance with

the By-law and to impose sanctions for by-law contraventions, staff are recommending that the educational period for the application of penalties and sanctions be extended for an additional six (6) months to allow staff to undertake a new procurement process to secure a Lobbyist Registrar.

Staff would use this opportunity to provide additional education to potential lobbyists and this extension would further allow additional time to ensure new Councillors are aware of their obligations as public office holders in accordance with the By-law.

Alternatives Reviewed

As Council's direction was to implement a mandatory Lobbyist Registry, a Lobbyist Registrar is required to fulfill specific roles and responsibilities to ensure adherence to the By-law. As such, a Lobbyist Registrar would be required to undertake those duties. Council could consider making the Registry voluntary which would eliminate the need for a Lobbyist Registrar; however, this would mean that there would not be any mechanism to deal with non-compliance.

Relationship to Council Strategic Priorities

This report aligns to Council's strategic priority of sustainable and engaging government including promoting an organizational culture that values continuous improvement, collaboration, and innovation and enhancing communication.

Other Pertinent Reports

CLK 2-2021 Considerations for a Lobbyist Registry

CLK 4-2021 Considerations for a Mandatory Lobbyist Registry

CLK 12-2021 Implementation of a Mandatory Lobbyist Registry

Prepared and submitted by:

Ann-Marie Norio
Regional Clerk

Submitted by:

Ron Tripp, P. Eng.
Chief Administrative Officer

This report was prepared in consultation with Donna Gibbs, Director, Legal & Court Services, and Jeff Mulligan, Procurement Manager.

Subject: Lobbyist Registry

Report to: Regional Council

Report date: Wednesday, March 22, 2023

Recommendations

1. That the educational period for the application of penalties and sanctions of the Lobbyist Registry By-law **BE EXTENDED** for an additional one (1) year period;
2. That the necessary by-law to enact this extension **BE PRESENTED** to Council for consideration; and
3. That staff **BE DIRECTED** to provide a report by the end of Q2 outlining options for the Lobbyist Registry.

Key Facts

- The purpose of this report is to seek Council's approval to extend the educational period for the application of penalties and sanctions for contraventions of the Lobbyist Registry By-law.
- At its meeting held on April 14, 2022, Regional Council approved By-law 2022-24, being a By-law to Establish and Maintain a Lobbyist Registry for The Regional Municipality of Niagara.
- The by-law included a provision of an educational period of six (6) months before the enforcement of any penalties and sanctions in order to provide an opportunity for communication and education to the public regarding this initiative and to allow staff the necessary time to undertake a competitive RFP process for Lobbyist Registrar services.
- Staff have undertaken two competitive procurement processes to seek a Lobbyist Registrar that have both proven unsuccessful. The most recent Request for Proposal (RFP) closed on March 21, 2023, without any proposals being submitted. As a result, staff are recommending an extension of the educational period to allow staff to provide Council with options for consideration respecting the Registry.

Financial Considerations

Funding related to the Lobbyist Registrar has been included in the 2023 budget and there may be cost-savings achieved as a result of the extension of the educational period as complaints would not be received during this period; however, any cost-saving would be dependent on the number of complaints received once a registry is operational.

Analysis

At its meeting held on November 18, 2021, Regional Council approved the recommendation of its Corporate Services Committee to implement a Lobbyist Registry Program for Niagara Region subject to the approval of funding in the 2022 budget. The funding for the Lobbyist Registry Program was approved as part of the 2022 budget process.

The recommendation to approve implementation of the Registry included a provision that the first six months following passage of the By-law would be an education period where penalties and sanctions would not be applied. The Lobbyist Registry By-law includes that the Enforcement and Penalties section will come into force and effect six (6) months after the effective date of the By-law which was April 14, 2022.

This period was to provide an opportunity to educate potential lobbyists on the duties and responsibilities when lobbying public office holders. In addition, it was also to permit the undertaking of a competitive procurement process for Lobbyist Registrar Services in conjunction with an RFP for Integrity Commissioner Services.

Request for Proposal Contract 2022-RFP-43 was issued to the market on July 26, 2022 via Niagara Region's Electronic Bidding Platform and closed on August 10, 2022. Unfortunately the RFP process was cancelled as a result of no proponents passing the technical benchmark.

On February 17, 2023, Request for Proposal Contract 2023-RFP-7, was issued to the market via Niagara Region's Electronic Bidding Platform. The RFP was refined to further clarify expectations for the role and was initially scheduled to close on March 9. As a result of no plan takers at that time, staff had an addenda issued, extended the deadline until March 21, 2023 and requested that Procurement staff undertake additional advertising to promote the opportunity. Unfortunately the RFP closed on March 21, 2023 and did not receive any submissions.

The Municipal Act, 2001, authorizes municipalities to establish lobbyist registries. Although it is compulsory in Toronto, only a handful of other municipalities have created lobbyist registries, including the cities of Brampton, Hamilton, Ottawa, and Vaughan, the Town of Collingwood, and the Region of Peel. In addition the City of Burlington has recently initiated a voluntary registry. Many of these municipalities either retain a full time Lobbyist Registrar, have someone acting as both their Integrity Commissioner and Lobbyist Registrar or have their Integrity Commissioner undertake this work. Given that many municipalities are just embarking on establishing registries the market for lobbyist registrar services is small and many Integrity Commissioners do not do lobbyist work.

As the Lobbyist Registry By-law contains explicit language with respect to the role and responsibilities of the Lobbyist Registrar to conduct inquiries regarding compliance with the By-law and to impose sanctions for by-law contraventions, staff are recommending that the educational period for the application of penalties and sanctions be extended for an additional one (1) year to allow staff to undertake a fulsome review of options with respect to next steps on the Lobbyist Registry. These options would be presented to Council for consideration no later than the end of Q2.

Staff would use this opportunity to provide additional education to the public/potential lobbyists and this extension would further allow additional time to ensure new Councillors are aware of their obligations as public office holders in accordance with the By-law.

Alternatives Reviewed

As Council's direction was to implement a mandatory Lobbyist Registry, a Lobbyist Registrar is required to fulfill specific roles and responsibilities to ensure adherence to the By-law. Given that staff have undertaken two competitive procurement processes to seek a Lobbyist Registrar that have not been successful, staff are proposing to bring forward a report outlining options including alternatives for next steps with respect to the Registry will provide Council with information to make a decision respecting how it would like to move forward, which requires a further extension to the educational period.

Relationship to Council Strategic Priorities

This report aligns to Council's strategic priority of sustainable and engaging government including promoting an organizational culture that values continuous improvement, collaboration, and innovation and enhancing communication.

Other Pertinent Reports

CLK 2-2021 Considerations for a Lobbyist Registry

CLK 4-2021 Considerations for a Mandatory Lobbyist Registry

CLK 12-2021 Implementation of a Mandatory Lobbyist Registry

CLK 7-2022 Extension of Education Period for Implementation of Lobbyist Registry

Prepared and recommended by:

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This report was prepared in consultation with Donna Gibbs, Director, Legal & Court Services, and Jeff Mulligan, Procurement Manager.

Appendices

None.