

Subject: Extension of Lobbyist Registrar Services Contract

Report to: Corporate Services Committee

Report date: Wednesday, September 11, 2024

Recommendations

1. That an extension to October 31, 2027, of the agreement with Boghosian+Allen LLP, for Lobbyist Registrar services, **BE APPROVED**; and
2. That the Regional Chair and Regional Clerk **BE AUTHORIZED** to execute an amending agreement with Boghosian+Allen LLP, for Lobbyist Registrar services from November 1, 2024 to October 31, 2027, in a form satisfactory to the Director, Legal and Court Services.

Key Facts

- The purpose of this report is to seek Council's approval for an extension of the current contract for Lobbyist Registrar services with Boghosian+Allen LLP.
- 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.
- On August 17, 2023, Regional Council authorized staff to single source lobbyist registrar services to Boghosian+Allen LLP, following two unsuccessful competitive procurement processes.
- The current agreement which would conclude on October 31, 2024, allows for an extension for the period November 1, 2024 to October 31, 2027.
- In order to ensure the Lobbyist Registry By-law is enforceable, a Lobbyist Registrar is required.

Financial Considerations

Lobbyist Registrar services are billed to the Region based on a fixed hourly rate and vary depending on how often the services are required. The rates confirmed as part of the original agreement would remain the same. Expenditures for Lobbyist Registrar services are expensed through the Clerk's Office yearly operating budget in which funding for this service has been included.

Analysis

Section 223.9(1) of the Municipal Act, 2001, authorizes municipalities to establish and maintain a lobbyist registry. The responsibilities of a Lobbyist Registrar, as provided in By-law 2022-24, include overseeing the administration of the Lobbyist Registry system, providing advice, opinions and interpretation of the By-law, conducting inquiries with regard to compliance with the By-law, suspending or revoking a registration, advising Regional Council on lobbying matters as well as providing an annual report and advice to Council.

Two request for proposal contracts were issued to the market on July 26, 2022, and again on February 17, 2023, via Niagara Region's Electronic Bidding Platform. Unfortunately, the first process was cancelled as a result of no proponents passing the technical benchmark and the second received no submissions. Boghosian+Allen LLP, provided the only bid submission to the first request; however, as noted above, did not achieve the required technical benchmark which was due to a lack of points being allocated for specific experience as a Lobbyist Registrar. Although Mr. Boghosian does not have specific experience as a Lobbyist Registrar, his extensive litigation and investigative expertise as well as his work as an Integrity Commissioner provide him with the necessary foundational skills to undertake this work.

Other municipalities with lobbyist registries either retain a full time Lobbyist Registrar, have someone acting as both Integrity Commissioner and Lobbyist Registrar or have their Integrity Commissioner undertake this work. Currently there are only a small number of municipalities embarking on establishing registries; therefore, the market for lobbyist registrar services is small.

At the time of passage of By-law 2022-24, a provision was included for an educational period before the enforcement of penalties and sanctions. Due to the inability to secure lobbyist registrar services, the education period was extended and ceased as of April 14, 2024. As of the expiry of the educational period, there have not been any filings regarding alleged contraventions of the By-law.

David Boghosian has acted for Ontario municipalities, their elected officials and staff in a wide variety of matters over the past 30 years and is widely regarded as an expert practitioner in the field of municipal law in the province. Mr. Boghosian is the managing partner of Boghosian+Allen LLP, and a leader in the provision of legal services to a large number of municipalities in the areas of general municipal law and general civil litigation among other areas. He also serves as the Integrity Commissioner for a number

of municipalities. With extensive investigation, trial and appeal experience in the context of municipal government, Mr. Boghosian's combined experience and skills make him ideally suited for the role of Lobbyist Registrar and staff are recommending an extension to the current agreement with Boghosian+Allen LLP.

Alternatives Reviewed

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. Council could decide to not approve an extension of the current contract with Boghosian+Allen LLP, for Lobbyist Registrar services; however, that would require a new Request for Proposal to be issued. Given the previous two unsuccessful requests for proposal, there may be difficulty securing these services which could result in the Region not having a Lobbyist Registrar; therefore, the provisions of the By-law would be unenforceable.

Relationship to Council Strategic Priorities

A Lobbyist Registry is an accountability and transparency tool. The continuity of this agreement will ensure that a Lobbyist Registrar is in place to conduct inquiries regarding potential contraventions of the Lobbyist Registry By-law. The recommendations in this report align with Council's Strategic Priority of an Effective Region through demonstration of continuous improvement and modernized processes.

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

CLK 3-2023 Lobbyist Registry

CLK 7-2023 Lobbyist Registrar Services

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Appendices

None.