



SUBJECT: Lobbyist registry development
TO: Corporate Services, Strategy, Risk & Accountability Cttee.
FROM: Office of the City Clerk

Report Number: CL-03-23

Wards Affected: all

File Numbers: 155-02

Date to Committee: June 26, 2023

Date to Council: July 11, 2023

Recommendation:

Repeal the Lobbyist Registration Corporate Policy upon the effective date of January 1, 2024 in the Lobbyist Registry By-law; and

Approve the Lobbyist Registry By-law as attached in appendix C to office of the city clerk report CL-03-23.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture
- Deliver customer centric services with a focus on efficiency and technology transformation

Executive Summary:

An extension to the lobbyist registry program is recommended, by way of implementing a Lobbyist Registry By-law, effective January 2024. The proposed lobbyist registry is developed to address concerns from the trial, be responsive to public engagement findings and align with Ontario municipal lobbyist registry standards. If approved, the proposed lobbyist registry is capable of being enhanced with additional features in the future.

Recommended updates to the current lobbyist registry include the following:

- **Mandatory registration** of applicable lobbying activities by eligible lobbyists to accurately capture lobbying at the City and increase registration functionality.
- **Expanding the Communication definition** to align with the universally applied definition from other Ontario municipal lobbyist registries by including all forms of communication to accurately capture lobbying at the City.
- **Adding Burlington Leadership Team** as a part of the lobbyist registry to provide stronger coverage of lobbying activities fulfilling public municipal governance needs.
- **Appointing the City Clerk as the Lobbyist Registrar** to centralize and improve efficiency of registry administration.
- **Adding limited education-based enforcement** for the lobbyist registry to establish mandatory registration requirements and strengthen community partnerships.

Background and Discussion:

Staff report [CL-15-21](#) was brought forward for Council consideration at the May 5, 2021 Corporate Services, Strategy, Risk and Accountability (CSSRA) Committee. The outcome was to direct the City Clerk to proceed with option 1 regarding implementing a lobbyist registry as outlined in Office of the City Clerk report CL-15-21 and direct the City Clerk to report back after public consultation in Q1 2023 with options. (SD-11-21).

Option 1 implementation was detailed in staff report [CL-28-21](#) with some customization. A [Lobbyist Registration Policy](#) was approved by Council on October 19, 2021. The [trial lobbyist registry](#) took effect in January 2022 and remains active.

Internal Review Findings

An internal review of the trial took place in January 2023 which consisted of reviewing web analytics of the lobbyist registry webpage and the affiliated open data webpage; and interviewing internal stakeholders.

Public use of the online lobbyist registry is low. The lobbyist registry webpage analytics showed initial interest after the launch in January 2022, with a stark, then gradual decrease in views and users throughout the year. The lobbyist registry itself did not get regularly viewed on the open data webpage. There is a direct correlation between these analytics and the uptake of the program itself.

Lobbyist registry feedback from the interviews with affected Office of the City Clerk and Councillor Office staff touched on the themes of registry interest, successes, challenges, implementation procedures and opportunities for improvement. Internal review results detailed the need for standardized procedures and centralized

registration intake at Office of the City Clerk as detailed in appendix A for the lobbyist registry to work in a permanent format.

Strategy/process

The proposed lobbyist registry is designed to enact Municipal Act legislative authority to transition from a voluntary to a mandatory, enforceable lobbyist registry. It meets where it both works for the city to implement and fulfils the municipal governance needs from the public. This objective is attainable through the recommended lobbyist registry option to 1) make mandatory, 2) apply to Council members and Burlington Leadership Team, 3) appoint the City Clerk as Lobbyist Registrar, and 4) add limited enforcement of temporary education-based lobbying bans.

The recommended updates to the lobbyist registry do not align with one selected option detailed in staff report [CL-28-21](#), various features were drawn from all four options to match the identified needs for the City through public consultation and internal review findings.

A by-law is required for a permanent mandatory lobbyist registry to take effect, replacing the corporate policy for the trial lobbyist registry. This approach aligns with how lobbyist registries are established in other Ontario municipalities.

A review of the identified Ontario municipalities with lobbyist registry by-laws from [CL-15-21 appendix A](#) was conducted. The draft lobbyist registry by-law was developed to model these existing lobbyist registry by-laws with modifications to fit Burlington's proposed lobbyist registry. Hamilton, Vaughan, and Collingwood's lobbyist registries were closely examined and are comparable due to their functionality, scalability, and compatibility with survey results.

Options Considered

Keep and Develop a Lobbyist Registry

A lobbyist registry is recommended to be continued and enhanced in a permanent capacity. The recommendation complies with the Code of Good Governance's aspirational commitment number seven, striving to ensure expansive transparency and robust accountability. Survey results strongly supported the city having a lobbyist registry even though it is not widely used.

The trial lobbyist registry has served its purpose of providing informative learning and has contributed to the proposed permanent lobbyist registry. Staff do not recommend continuing the pilot on a permanent basis.

An alternative option is to discontinue the lobbyist registry. Council may choose to direct the City Clerk to review whether resources can be allocated to greater expand accountability and transparency in another capacity. This option is not recommended due to the research and results of the public consultation.

Type: Mandatory

Moving from a voluntary to a mandatory lobbyist registry is recommended to simplify the registration process, to maintain lobbyist registry standards and clarity. With a mandatory registration process it becomes a 'yes or no' answer to the question of whether a lobbyist needs to register. Ambiguity in the process led to inconsistencies on the volunteer trial registry as to whom should (not) be on the registry. The characteristics associated with a mandatory registry provides the structure to effectively administer the registry.

A mandatory lobbyist registry provides more transparency when capturing lobbyist interactions with Public Office Holders. The standard is set with mandatory registration that applicable lobbying is recorded and relevant lobbyists are on the registry. The survey results demonstrate public agreement with this approach.

Applies to: Lobbyist communications

Maintaining the current definitions for lobbyists as initially defined in the trial is recommended. These definitions were drawn from a universally applied definition and works best for the City's lobbyist registry. The definition creates categories of lobbyists and activities exempt from the registry to be clear on what is subject to the registry.

The definition of communications in the corporate policy is currently limited to in-person and virtual meetings. It is recommended to expand to the universally applied definition which includes all forms of written and verbal communication. This definition expansion will support accurately capturing lobbying activities on the lobbyist registry.

Lobbyist Conduct

The proposed by-law includes a Lobbyist Conduct section. The draft lobbyist registry includes Lobbyist Conduct as Part Seven of the by-law, modelled after existing Lobbyist Code of Conduct schedules. Unique to Burlington, staff propose, registering lobbyists be required to acknowledge they have read and understood their conduct requirements in accordance with the by-law. It is anticipated that this change may strengthen Lobbyist conduct awareness and accountability. An acknowledgment confirmation can be included by way of the online registration form to the lobbyist registry by-law.

Impacts: Council members and Burlington Leadership Team

Through Part Six of the proposed By-law, staff recommend expanding the scope of participants, and designate in the proposed by-law Burlington Leadership Team (BLT) as Public Office Holders. Including staff correlates with findings from the jurisdictional scan, feedback received from the public consultation and may help to sufficiently capture relevant lobbying activities at the city.

Lobbyists lobbying staff other than those at the Director level or above is unlikely, resulting in the presented option to only include BLT members.

Alternative options can be to have the lobbyist registry impact less staff by limiting the public office holder definition or to expand to more staff such as all employees in management, specific departments that experience more lobbying, or include specific staff roles susceptible to lobbyist activity. Expansion is not recommended at this time.

Subject Matter: Set through definitions and exemptions in By-law (no change)

Subject matter of the lobbyist registry is set through the 'lobbyist,' 'lobbying' definitions, Exempted Persons and Organizations, and Exempted Activities parts of the lobbyist registry by-law. These combined components provide clarity of scope on the lobbyist registry for effective implementation and aligns with other Ontario municipalities. The registration form will be updated for lobbyists to identify and select whether they apply to the registry based on the by-law definitions and exemptions.

Registration: Manual (no change)

Manual registration through posting onto the open data webpage will continue, the Office of the City Clerk will maintain operating the lobbyist registry through its existing staff complement. The existing lobbyist registry can be enhanced through posting it in a spreadsheet format instead of a word document, to enable filters, sorting and search functionality, as used by comparable municipalities. In addition, staff will review future processes to be mindful of staff upkeep commitment.

Maintained by: Corporately (no change)

The lobbyist registry will continue to be maintained corporately. The interviews with affected staff indicated that administering an effective lobbyist registry is suited to be kept internal with a centralized implementation model. In addition, public consultation yielded a preference for city staff to administer over an external consultant firm.

Lobbyist Registrar: Yes - Office of the City Clerk

It is recommended to appoint the City Clerk as the Lobbyist Registrar to establish a centralized registry administration model. The City Clerk may delegate any of their responsibilities under section 228(4) of the *Municipal Act* and provides flexibility to the

Office of the City Clerk on how the registry could be managed. The Lobbyist Registrar's responsibilities are outlined in Part Five of the draft lobbyist registry by-law and developed based off other existing lobbyist registry by-laws in Ontario. This approach addresses the concerns raised through the internal review, enables consistent application of the lobbyist registry, and aligns with public preferences outlined in the survey responses.

Enforcement: Limited to temporary lobbying bans

A mandatory lobbyist registry subsequently requires enforcement for it to be effectively maintained. Part Nine of the draft lobbyist registry by-law has an escalating lobbying ban enforcement, starting with an education component prior to conducting lobbying activities for a first offense, increasing to 60 days or more for additional offenses.

It is the role of the Lobbyist Registrar to evaluate whether there has been a contravention to the by-law that warrants application of this penalty. This enforcement approach is commonly used in other Ontario municipal lobbyist registries. An educational enforcement approach was chosen to enable the city to work with lobbyists to achieve compliance. Alternatives may be increase enforcement and penalty severity after the lobbyist registry is more established through a future by-law amendment.

Effective Date: January 1, 2024

The effective date of the by-law is proposed to begin in 2024. Alternatives may be considered to provide more or less time to the effective date, however approximately eight months to complete the requisite education, procedural updates and notice to lobbyists is considered sufficient with available resources.

Future Development Opportunities

Future amendments may be introduced to refine the lobbyist registry. Measures may include but are not limited to stricter enforcement, the ability to appeal the Lobbyist Registrar's decisions, and more reporting requirements for registration and returns by the lobbyist.

Financial Matters:

Total Financial Impact

Not applicable.

Source of Funding

The existing Office of the City Clerk operating budget.

Other Resource Impacts

Some staffing duties will be modified to accommodate the implementation of the lobbyist registry. In 2024, after implementation, staff will monitor the program uptake and work connected to maintaining the registry.

Climate Implications

Not applicable

Engagement Matters:

Council member assistants, and supporting Office of the City Clerk staff, were interviewed for feedback on the lobbyist registry. The broader public was engaged through this survey without targeting a specific group.

A survey was developed and published on the City's public engagement website from January 17, 2023, to February 6, 2023. The survey consisted of 17 questions covering the purpose, impacts and subject matter of the lobbyist registry. It was developed to provide the opportunity for public input into the lobbyist registry and identify any specific public preference in its functionality and use. 139 individuals took the lobbyist registry survey. A detailed analysis of the consultation is contained in Appendix A.

The survey did not target a specific group or request identification of whether the respondent was from any group with the objective to capture a general sense of public preferences on the lobbyist registry. Respondents who took the survey largely agreed that the city should have a registry, and that it is important component of local governance accountability. Further, it yielded that regardless of public use the registry should be maintained, and to capture lobbyist activities before and after its occurrence. Survey results supported that the lobbyist registry be mandatory, and to slowly scale with existing resources, and be administered by city staff.

Responses on the lobbyist registry subject matter indicated to:

- include the sub-categories of lobbyists (voluntary, in-house, consultant),
- register for each time they meet with a Council member,
- include dedicated resources to administer,
- staff complete a review on the meetings subject matter for specifics,

- resourced technology investments at the same level of other similarly sized cities,
 - identify what role or level the Council members are being lobbied, and
 - update the registry on a weekly basis.
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Conclusion:

The lobbyist registry is recommended to continue in a permanent capacity, replacing the trial. Should Council approve the recommendation, the proposed system will be developed to improve on the trial functionality and be comparable with Ontario municipal lobbyist registry standards.

Respectfully submitted,

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Appendices:

- A. Lobbyist registry review and public consultation findings
- B. Current Lobbyist Registry Corporate Policy (proposed to be repealed)
- C. Draft Lobbyist Registry By-Law

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer, and the Executive Director of Legal Services & Corporation Counsel.