

Staff Report



To	Committee of the Whole
Service Area	Corporate Services
Date	Wednesday, April 3, 2024
Subject	Lobbyist Registry Review

Recommendation

1. That the City Clerk be directed to draft a Lobbyist Registry By-law and Lobbyist Registry Code of Conduct, consistent with the details of report 2024-108 dated April 3, 2024, and report back to Council in Q3 2024.
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Executive Summary

Purpose of Report

The Municipal Act grants municipalities the authority to create a Lobbyist Registry (Registry) and appoint a Lobbyist Registrar (Registrar). A Registry is not mandatory, although if implemented several statutory and required provisions do apply.

City staff are recommending that a mandatory Registry with enforcement provisions be established in Guelph with an independent Registrar appointed by City Council. If City Council approves the recommendations included in this report, City staff will report back to Committee of the Whole in July with a Registry By-law for approval and a recommendation on the appointment of a Registrar. If approved by City Council at that time, the Registry By-law would come into effect on September 1, 2024 to allow time for public awareness and training. Additionally, the enforcement provisions of the Registry By-law would not come into effect until January 1, 2025 to ensure that elected officials, City staff and lobbyists can become familiar with the provisions of the Registry.

Key Findings

A Registry is a useful tool for promoting transparency in local government. It provides a public record of individuals engaged in lobbying activities, including who they represent and the issues they advocate for. This transparency helps prevent undue influence and allows the public to understand the relationship between lobbyists and policymakers. A Registry does not prohibit, minimize or reduce the effectiveness of lobbying and it places no limits on the amount or type of lobbying that can take place.

A mandatory Registry requires that lobbyists submit returns every time they lobby Officer Holders. Returns will include, at a minimum, the lobbyist's name, lobbyist's employer (if applicable), the details of the subject matter to which the lobbying relates, the office holder lobbied, and the date that the lobbying occurred. In this

fashion, a Registry is no more complicated than a public list of registered lobbying events completed in accordance with a Registry By-law.

Strategic Plan Alignment

The establishment of a Registry in Guelph will increase the accountability of elected officials and senior City staff, in keeping with the lead with accountability objective of the Future Guelph Strategic Plan.

Future Guelph Theme

Foundations

Future Guelph Objectives

Foundations: Lead with accountability

Financial Implications

There are no new or additional costs associated with building or maintaining a Registry, but the work of the Registrar will require additional funding. It is anticipated that a Registrar will invoice the City hourly for services rendered. The total annual costs associated with this work are estimated to be \$10,000 to \$20,000. This budget impact will be monitored in the first two years of implementation and will be considered in the budget confirmation process in priority to other service delivery requirements.

Following implementation and monitoring in 2025 and 2026, the continuance of a Registry will be subject to budget approval.

Report

The Municipal Act grants municipalities the authority to create a Registry and appoint a Registrar. A Registry is not mandatory, although if implemented several statutory requirements apply. In 2019, the [City Clerk's Office conducted a review of the Registry provisions of the Municipal Act](#) and recommended against creating a Registry due to the effectiveness of existing accountability mechanisms and cost. However in 2023, as part of the [Updates Resulting from the Extension of Strong Mayor Powers report](#), City Council passed the following resolution directing staff to conduct another review of the desirability of a Registry, considering the new strong mayor governance system:

That the City Clerk be directed to report back regarding the opportunities, benefits and costs of a municipal lobbyist registry for City Council's consideration in Q1, 2024.

The strong mayor legislative changes introduced in 2023 have increased the powers and authorities granted to the Mayor, which in turn may create more opportunities for lobbyists to influence decision-making. As Guelph grows, with corresponding increases in budget and project scope, the opportunities for individuals to impact policy making in a way that benefits themselves or their financial interests also grows. A Registry would add to the existing accountability and transparency program managed by the City, which includes the City's Integrity Commissioner, Closed Meeting Investigator and Conflict of Interest Registry, and will help foster greater trust in local government.

10 other Ontario municipalities currently have Registries: Brampton, Burlington, Collingwood, Hamilton, Niagara Region, Ottawa, Peel, Pickering, Toronto and Vaughan. Several other municipalities are in the process of exploring the feasibility and desirability of a Registry.

Considering the success of Registries in comparable municipalities, and the opportunity to increase public trust in local decision making, staff are recommending that a mandatory Registry with enforcement provisions be established in Guelph and an independent Registrar be appointed by City Council.

The remainder of this report outlines, at a high level, the various components and features of Registries broadly as well as in Guelph specifically. The recommendations contained in this report, if approved by City Council, will direct staff to present a Registry By-law and Code of Conduct for Lobbyists to City Council for approval in July, 2024 with an effective date of September 1, 2024.

Lobbyist Registry Features and Components

What is a municipal Lobbyist Registry?

A municipal Registry is a public record that documents individuals engaged in lobbying and specific instances of lobbying. It provides the public with the ability to see who is lobbying office holders in Guelph and the associated instances of lobbying, including who the lobbyist was, who was lobbied, the subject matter of the lobbying and the date the lobbying occurred.

How does a municipal Lobbyist Registry increase transparency?

Providing public access to information regarding the interactions between lobbyists and policymakers allows individuals to understand who is influencing decision-makers and what issues are being advocated for. Informed residents can then make better judgements about the policies and decisions that impact their lives, contributing to a more open and democratic culture in Guelph. While a Registry ensures transparent and ethical lobbying, it is worth remembering that it does not limit the amount or type of lobbying that can occur.

What is the role of the Registrar?

The Registrar is an independent accountability officer appointed by City Council whose role is to provide advice and investigate complaints regarding compliance with the Registry By-law. The Registrar would operate in a similar fashion to the Integrity Commissioner. While the Integrity Commissioner provides advice and investigates complaints under the Code of Conduct, the Registrar provides advice and investigates complaints under the Registry By-law.

The Registrar is an independent officer, ensuring consistent advice and enforcement of the Registry By-law without the interference of elected officials or City staff.

Who is considered a public office holder?

For the purposes of a Registry in Guelph, office holders include all members of City Council, Advisory Committees of Council (ACOCs), the Executive Team, the Leadership Team and staff acting under delegated or statutory authority.

Who is considered a lobbyist?

Lobbyists are individuals who lobby office holders and who are paid or represent a business or financial interest with the goal of influencing any legislative action

including development, introduction, approval, defeat, amendment or repeal of a by-law, motion, resolution or other decision.

Who is not considered a lobbyist?

The following individuals are not considered lobbyists and may freely interact with office holders without submitting lobbyist returns:

- Individuals acting in their public capacity in the public sector (such as representatives of other municipalities, levels of government, first nations, school boards, healthcare institutions, etc.).
- City employees and office holders.
- Members of ACOCs and other local boards (Guelph Police Services Board, Guelph Public Library Board, Business Improvement Area, etc.).

Individuals included in the list above are not considered to be lobbyists, but many (for example, members of the Executive Team) are considered office holders and therefore can be lobbied by lobbyists (assuming the lobbyist is acting in accordance with the Registry By-law).

Examples of who are and are not considered lobbyists

For greater clarity, specific examples of who are and are not considered lobbyists are included below. These examples are not exhaustive and reflect only a few circumstances to help illustrate the definitions noted above.

Examples of individuals considered to be lobbyists:

- Developers communicating with office holders outside of the regular approval process or course of business seeking to influence land-use planning decisions.
- Representative of community organizations communicating with office holders to seek funding for specific projects or initiatives.

Examples of individuals not considered to be lobbyists:

- Representatives of a not-for-profit community organization communicating with an office holder to encourage a specific policy outcome for which they or their organization have no financial interest.
- Residents lobbying office holders on behalf of themselves for a specific policy outcome.
 - For example, a member of the public communicating with a member of City Council to seek increased sidewalk snow plowing.
- The chair of an ACOC speaking to a member of City Council to encourage them to approve an item which was previously before the ACOC.
 - For example, the chair of Heritage Guelph (an ACOC) speaking to a member of City Council to encourage them to approve a heritage designation which was recommended by Heritage Guelph.

What is lobbying?

Lobbying occurs when a lobbyist attempts to influence a public policy decision or outcome. For the purposes of a proposed Registry in Guelph, lobbying would be defined as:

Any communication with an office holder by an individual who is paid or represents a business or financial interest with the goal of influencing any legislative action including development, introduction, approval, defeat, amendment or repeal of a by-law, motion, resolution or other decision before City Council, a committee of City Council, an ACOC or a member of staff acting under delegated or statutory authority.

What activities are exempted from the definition of lobbying?

The following activities are exempted from the definition of lobbying:

- Communication that occurs during a City Council or committee meeting.
- Communication that occurs as part of a public process such as a town hall meeting, public meeting or open house.
- Communication related to a request for information.
- Communicated that is solely related to a compliment or a complaint regarding a service or program.
- Communication regarding the enforcement or interpretation of an act or by-law.
- Communication regarding the implementation or administration of an existing policy, program or direction.
- Communication by an applicant or an interested party regarding general information on an application, grant, planning approval, permit or license as long as the request is part of the normal course of the approval process.
- Submission of bid proposals as part of a procurement process or any communication needed for that purpose.
- Communication by a resident on a general neighbourhood or policy issue.
- Communication related to any City-initiated community engagement process.
- Communication in direct response to a written request from an office holder.
 - This exemption is designed to ensure that office holders (such as a member of City Council or the Executive Team) can freely seek information and advice from across the community without exposing individuals to Registry requirements when they did not initiate the interaction.

What are some examples of what are and are not considered lobbying?

For greater clarity, specific examples of what is and is not considered lobbying are included below. These examples are not exhaustive and reflect only a few circumstances to help illustrate the definition noted above.

Examples of lobbying include:

- A developer speaking with a member of City Council regarding desired changes to the City's Official Plan or Zoning By-law.

- A developer speaking to a member of City Council encouraging them to approve a specific land-use planning application.
- A developer speaking to a member of Heritage Guelph (an ACOC) encouraging them to approve (or not approve) a matter before the committee.
- A representative of an organization speaking with the Deputy CAO of Public Services to encourage them to approve a specific community grant application.
- A representative of a business speaking with a member of City Council about changes to regulations which could impact the financial interests of their business.
 - For example, a restaurant owner speaking to members of City Council or the Executive Team to lobby in favour of changes to the seasonal patio program.

Examples not considering lobbying include:

- Communication with a member of City Council or the Executive Team where the member of City Council or the Executive Team has initiated or requested the communication.
- A representative of a not-for-profit community organization speaking to the General Manager of Parks about the availability of recreation equipment in parks where there is no financial interest on the part of the not-for-profit community organization.
- A developer speaking with Planning and Building Services staff regarding an active land-use planning application where the communication is part of the normal approval process or course of business.
- A resident speaking to a member of City Council about general community issues, such as park maintenance or waste collection.

Public Complaint Process

To ensure the mandatory nature of the Registry, a public complaint process managed in coordination with the Registrar is recommended. This complaint process will operate similarly to the current [Code of Conduct for Council and Local Boards](#) complaint process, whereby complaints go directly to the Registrar for investigation without the involvement of City staff. This ensures that there is third-party accountability applied to the requirements of the Registry and that review of such complaints are carried out in an independent and arms-length manner.

Members of the public may file complaints if they believe that the provisions of the Registry By-law have been breached. Complaints would be confidential, but not anonymous, and would include:

- Name of complainant
- Contact info for complainant
- Name of individual alleged to have violated the provisions of the Registry By-law
- Name of office holder alleged to have been lobbied in violation of the provisions of the Registry By-law

- Details regarding the nature of the suggested breach and applicable

Penalties and Enforcement

Lobbyists who are found by the Registrar to have acted in contravention of the Registry By-law would be subject to penalties as outlined in the Registry By-law which may include temporary lobbying bans of increasing length beginning at 30 days for the first offence, 60 days for the second offence and 90 days or more for the third offence at the Registrar's discretion.

Enforcement of the Registry is to be managed exclusively by the Registrar, independently of City staff, as an accountability officer appointed by City Council.

Lobbyist Code of Conduct

What is a Lobbyist Code of Conduct?

A Lobbyist Code of Conduct governs the conduct of Lobbyists when lobbying office holders. A Lobbyist Code of Conduct operates similarly to the [Code of Conduct for Council and Local Boards](#). Lobbyists are bound to act in keeping with the Lobbyist Code of Conduct and the public can file complaints to the Registrar regarding non-compliance.

What is included in a Lobbyist Code of Conduct?

A Lobbyist Code of Conduct includes, but is not limited to, provisions regarding honest and ethical behaviour, handling of confidential information, competing interests and improper influence.

Possible Disadvantages of a Lobbyist Registry

The primary disadvantage of a Registry is the added layer of bureaucracy it adds to the policy making process. While a Registry may introduce some new administrative processes for lobbyists and City staff, its primary purpose is to enhance transparency and accountability in government. City staff believe that the potential increase in administrative processes is a reasonable trade-off for the benefits associated with giving residents access to information about interactions between lobbyists and policymakers.

Financial Implications

If approved by City Council, Guelph's Registry will utilize a software tool developed in-house by the Information Technology department. There are no new or additional costs associated with building or maintaining a Registry. Once developed and rolled out publicly, staff expect to manage the Registry within existing workplans.

It is anticipated that a Registrar will invoice the City hourly for services rendered. The total annual costs associated with this work are estimated to be \$10,000 to \$20,000, although final amounts will fluctuate year-to-year based on the number of requests for advice and complaints received. This budget impact will be monitored in the first two years of implementation and will be considered in the budget confirmation process in priority to other service delivery requirements.

Following implementation and monitoring in 2025 and 2026, the continuance of a Registry will be subject to budget approval.

Consultations and Engagement

None.

Attachments

None.

Departmental Approval

None.

Report Author

Dylan McMahon, Manager, Legislative Services/Deputy City Clerk

This report was approved by:

Stephen O'Brien
General Manager, City Clerk's Office/City Clerk
Corporate Services
519-822-1260 extension 5644
stephen.obrien@guelph.ca

This report was recommended by:

Trevor Lee
Deputy Chief Administrative Officer
Corporate Services
519-822-1260 extension 2281
trevor.lee@guelph.ca