Minutes – Executive Policy Committee – April 19, 2017

REPORTS

Item No. 1 Lobbyist Registry

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and recommended to Council:

1. That a Lobbyist Registry be implemented by the City's Clerks Department as detailed in this report.

2. That the Integrity Commissioner be designated the Registrar for the City of Winnipeg's Lobbyist Registry, and be responsible for review and future changes of the Lobbyist Registry process, as well as for recommending changes to Council on The City of Winnipeg Charter, in consultation with the Director of Legal Services and City Solicitor, as detailed in this report.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

DECISION MAKING HISTORY:

The Chairperson called Councillor Pagtakhan to the Chair in order to move the following motion:

Moved by His Worship Mayor Bowman,

That the recommendation of the Winnipeg Public Service be concurred in and forwarded to Council.

Carried

His Worship Mayor Bowman resumed the Chair.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 7, 2016, the Executive Policy Committee passed the following motion:

WHEREAS on May 27, 2015, Council adopted the City of Winnipeg Audit Department's Report on the Creation of a Lobbyist Registry providing 16 recommendations, including:

> Recommendation 15 - that Council consider the combination of Lobbyist Registrar with the establishment of an Integrity Commissioner in order to create efficiencies and reduce total overall costs, and
>
> Recommendation 16 - that The Public Service should be directed to prepare a report for the consideration of Council detailing a comprehensive implementation plan for a Lobbyist Registry in the City of Winnipeg;

AND WHEREAS on December 9, 2015, Council adopted Recommendation 15 within the Office of Integrity (Ethics) Commissioner Report;

AND WHEREAS the selection process for a City of Winnipeg Integrity Commissioner is underway and an appointment recommendation for Council's consideration is anticipated in early 2017;

THEREFORE BE IT RESOLVED that the City Clerk's Department be directed to prepare a report for the consideration of Council detailing an immediate implementation plan for a Lobbyist Registry in the City of Winnipeg taking into consideration the recommendations provided in the City of Winnipeg Audit Department's Report on the Creation of a Lobbyist Registry and that they report back before April 2017.

ADMINISTRATIVE REPORT

Title: Lobbyist Registry

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Watt	R. Kachur	M. Ruta	M. Jack A/CAO

EXECUTIVE SUMMARY

It is recommended that a Lobbyist Registry be implemented by the City of Winnipeg in a simplified format and that this initiative be reviewed and revised by the Integrity Commissioner as part of their mandate, as adopted by City Council on December 9, 2015.

RECOMMENDATIONS

1. That a Lobbyist Registry be implemented by the City's Clerks Department as detailed in this report.

2. That the Integrity Commissioner be designated the Registrar for the City of Winnipeg's Lobbyist Registry, and be responsible for review and future changes of the Lobbyist Registry process, as well as for recommending changes to Council on *The City of Winnipeg Charter*, in consultation with the City Solicitor, as detailed in this report.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On December 7, 2016, Executive Policy Committee directed the City Clerk's Department to prepare a report for the consideration of Council detailing an immediate implementation plan for a Lobbyist Registry in the City of Winnipeg, taking into consideration the recommendations provided in the City of Winnipeg Audit Department's Report on the Creation of a Lobbyist Registry, and report back before April 2017.

IMPLICATIONS OF THE RECOMMENDATIONS

The implementation of a Lobbyist Registry will provide a transparent and open process by which Lobbyists can voluntarily register, allowing for both government officials and the public to know who is attempting to influence decision makers.

HISTORY/DISCUSSION

The first introduction of the creation of a lobbyist registry was through the consideration of a motion at Council on March 26, 2014. On May 15, 2014 The Governance Committee of Council recommended that the Council Motion be referred to the City Auditor for report back to the Governance Committee of Council.

On May 27, 2015 Council received as information the City's Auditor's Lobbyist Registry Report and directed the Public Service to prepare a report for the consideration of Council outlining the required amendments to *The City of Winnipeg Charter* to create an enforceable Lobbyist Registry, that allows for investigative and enforcement activities.

The City Auditor's Report titled "Report on the Creation of a Lobbyist Registry" provided a number of detailed recommendations in the event a Lobbyist Registry is created by the City of Winnipeg. Many of these recommendations will be the basis for this initial implementation of the lobbyist registry, should this report be adopted. The City Auditor's report is included as Appendix A for further information.

On December 9, 2015, Council adopted the report Office of Integrity (Ethics) Commissioner, in which recommendation 4 identified that should a Lobbyist Registry be established, the oversight of the registry be included in the Integrity Commissioner's mandate.

It is recommended that the simplified Lobbyist Registry process established in this report be reviewed and revised by the Integrity Commissioner at a later date, as the position becomes more established.

Why is a Lobbyist registry important?

Governments have been implementing Lobbyist Registries to provide a transparent and open process which allows for both government officials and the public to know who is attempting to influence decision makers. Lobbyist Registries exist in many government jurisdictions including:

- Government of Canada
- Most Provinces including the Government of Manitoba
- City of Toronto
- City of Ottawa

All of these jurisdictions have public facing websites regarding their Lobbyist Registry.

What is a Lobbyist?

It is important to define what a lobbyist is. Through the examination of other lobbyist registries in other jurisdictions, conducted by the City Audit Department, it was determined that there are many different definitions of what or who is considered to be a lobbyist. Both the Federal and Provincial Governments use criteria based on the amount of time an individual lobbies but other jurisdictions, such as the Cities of Ottawa and Toronto, do not use the same criteria.

For simplicity, and under the recommendation of the City Audit Department, we believe that the definition should be kept simple and clear and recommend that a lobbyist be defined as:

> *Lobbyist – is an individual who when representing a financial or business interest, or the financial interest of a not-for-profit with paid staff, communicates with a Member of Council or City staff to try and influence a decision on governmental matters that are outside of the standard process.*

For further clarification, some general examples include:

- If an individual communicates in an established process or an open civic forum, they would not be considered a lobbyist as these are already standard transparent processes. For example, someone who speaks before a Council meeting or is applying for a building permit.
- Only if an individual communicates with a governmental decision maker to seek direct or indirect financial benefit or increased / decreased / changed City services, policies, practices or legislation that may lead to direct or indirect financial benefit, would they be considered as a lobbyist.
- If you are not paid for communicating with a governmental decision maker, you do not represent a business or financial interest, or if you are part of a not-for-profit organization with no paid staff; you would not be considered a lobbyist. For example, a citizen calling in regards to issues with snow-clearing or waste removal would not be considered a lobbyist.
- Individuals acting in their official capacity as a government or public sector official are not considered lobbyists. For example, a City Employee or an MLA meeting with a Councillor regarding an issue or program would not be considered a lobbyist.

Lobbyist Registration

Within all jurisdictions researched, it was the responsibility of the lobbyist to register their activity and to self-report. To ensure that the registry has the most accurate and simplistic information possible, it is important to identify who, what and when lobbyists need to disclose when registering, and the process for which this will be done. As well, some jurisdictions do have mechanisms and penalties for failing to self-report.

Who

Lobbyist – is an individual who when representing a financial or business interest, or the financial interest of a not-for-profit with paid staff, communicates with a Member of Council or City staff to try and influence a decision on governmental matters that are outside of the standard process. A Decision-Tree is included in Appendix E and will assist in determining if an individual is a lobbyist.

What

There are typically 2 categories of lobbying activity in other jurisdictions surveyed: 1) Project or Undertaking and 2) Interaction. Category 1, Project or Undertaking, focuses on a specific project where multiple lobbying interactions take place relating to one subject matter. Interaction involves a single communication (e-mail, phone, in-person, etc.). For the most

efficient registry at this time, it is recommended that Category 2) Interaction, meaning any communication engaged in to any decision maker, be the recommended path for the City of Winnipeg to follow at this time.

Further to the information disclosed above, lobbyists will be required to provide the following:

- The name and contact information of the organization for whom the lobbying is being performed for, either the organization they are employed by or a third party.
- The name and contact information of the individual performing the lobbying.
- The subject matter, intended outcome, names of the individuals lobbied, how they communicated, the date of communication and the affected ward, if applicable.

Other registration considerations such as the list of the organization's officers and directors, if they were previously or currently provided with government grants, if the lobbyist has previously held a senior public office or if they have any affiliation with City boards and commissions, should be further considered within the mandate of the Integrity Commissioner at a future date. Examples of information collected by Toronto and Ottawa are included in Appendices B and C.

When

While some jurisdictions require lobbyists to "pre-register" and be approved before they engage a decision maker, others require a lobbyist to register anywhere from 3-15 days after the lobbying has occurred.

For the City of Winnipeg it is recommended that lobbyists be required to register within 10 days of the interaction, which would provide additional disclosure time as some individuals may not realize that they are in fact a lobbyist until after the interaction has occurred. This suggested timeframe also provides the public access to the information within a reasonable time period. Elected Officials should be advised that they are responsible to advise lobbyist of the registry and the need to register.

How

Similar to other jurisdictions, it is recommended that the registry should be an internet based program with 2 sections:

1. one being an area to record lobbying activities through an online form; and
2. a searchable list of all lobbying activities that the public can access and search.

To ensure timely implementation of the registry, it is recommended that the City Clerk's Department administer the registry within its existing resources, by creating web pages with searchable lists of lobbying created in an online table / PDF's. It is recommended that there be no fee in regard to this program at the present time. An example of the registry form that will appear on the City of Winnipeg website / information that will be collected is included in Appendix D.

Registry Enforcement and Penalties

Throughout municipalities in Ontario, registrars are provided with enforcement powers through legislation. Similarly, the Province of Manitoba has specific powers mandated through provincial legislation. Currently *The City of Winnipeg Charter* does not provide for powers to investigate or the ability to levy and enforce fines or other penalties should a lobbyist not register their activity.

It is recommended that the Integrity Commissioner, within its future mandate, further investigate and / or request amendments to *The City of Winnipeg Charter*, in consultation with the City Solicitor, that may provide enforcement measures, investigation powers and sanctions or penalties for non-compliance.

Other Considerations

Lobbyist Registries can be very complex and detailed and further considerations for the registry should be investigated in the future by the Integrity Commissioner. Items such as a Code of Conduct for Lobbyists, as well as implementing a "cooling off period" for former governmental decision makers who are now lobbyists, should be investigated for implementation.

Implementation of the Lobbyist Registry described in this report is a simplified version of the registry from other jurisdictions. This will allow the City of Winnipeg to move forward and establish a program, which will allow an initial evaluation on this important initiative. It is recommended that the Integrity Commissioner be designated as the Registrar for the Lobbyist Registry, responsible for further review and changes to the process, as well as for enforcement and recommending changes to *The City of Winnipeg Charter*, in consultation with the City Solicitor, related to this process.

Appendices

Appendix A – Report of the City Auditor to City Council – May 27, 2015



Lobbyist Registry - Appendix A.pdf

Appendix B – City of Toronto – Registry Listing and Detail



Lobbyist Registry - Appendix B.pdf

Appendix C – City of Ottawa – Registry Listing and Detail



Lobbyist Registry - Appendix C.pdf

Appendix D – Proposed sample registry form for City of Winnipeg



Lobbyist Registry - Appendix D.pdf

Appendix E – Decision Making Tree for City of Winnipeg



Lobbyist Registry - Appendix E.pdf

FINANCIAL IMPACT

Financial Impact Statement **Date:** March 22, 2017

Project Name: Lobbyist Registry

Comments:
No initial costs are required to establish the proposed lobbyist registry described in this report. However it is recommended that this program be turned over to the Integrity Commissioner to oversee as registrar and to implement changes and revisions as required. These future changes may require funding.

Original signed by: Ramona Hodges
Ramona Hodges
Manager of Finance (Campus)
Corporate Finance Department

CONSULTATION

In preparing this report there was consultation with:

Corporate Finance

OURWINNIPEG POLICY ALIGNMENT

This report is in accordance with the OurWinnipeg policies through ensuring that Openness and Transparency in Decision – Making and ensuring Accessibility standards are met.

OurWinnipeg Reference: Prosperity

SUBMITTED BY

Department: City Clerk's
Prepared by: Destiny Watt, Senior Committee Clerk
Date: March 22, 2017