

Date: March 25, 2015

File: BC.x

Subject: **Recommendation Report**
Lobbyist and Gift Registries

Contact: Wendi Hunter, Manager Administrative Services and Elections 905-874-2139

Nupur Kotecha, Legal Counsel, Corporate Services 905-874-2833

Overview:

- **On January 21, 2015 Council directed the City to develop a framework and the necessary mechanisms to administer a Lobbyist Registry and a Gift Registry. Council also directed that the Member Services Committee and City staff make recommendations to Council on staffing, oversight and financial implications of the Lobbyist and Gift Registries by February 25, 2015.**
- **Staff reported to City Council on February 25, 2015 providing an overview of discussions to date and status of the initiatives.**
- **The Member Services Committee met on March 2, 2015, and further defined scope and processes for the proposed Lobbyist and Gift Registries.**
- **This report recommends frameworks for the Lobbyist and Gift Registries, including high-level definitions and exemptions, and administrative structures.**
- **Upon adoption of the recommendations in this report, staff will conduct stakeholder consultations as outlined, and report back to the Corporate Services Committee with a by-law establishing the Lobbyist Registry, and amendments to the Members of Council and Employee Codes of Conduct to accommodate the Lobbyist Registry and the Gift Registry.**

Recommendations:

1. That the report from Wendi Hunter, Manager, Administrative Services and Elections, and Nupur Kotecha, Legal Services, Corporate Services, dated March 25, 2015, to the Corporate Services Committee meeting of April 1, 2015, re.

Lobbyist Registry and Gift Registry – Recommendation Report (File No: BC.x), be received; and

2. That the Framework for the Lobbyist Registry, attached as Appendix A to this report, be adopted as the basis for consultations and development of the Lobbyist Registry By-law for presentation to Council for enactment; and
3. That the Registration Process for the Lobbyist Registry, attached as Appendix B to this report, be adopted as the basis for consultations and development of processes and procedures to implement the Lobbyist Registry By-law; and
4. That the Framework for the Gift Registry, attached as Appendix C to this report, be adopted as the basis for amendments to the Mayor and Councillor Code of Conduct and Employee Code of Conduct, and necessary processes and procedures to implement the Gift Registry; and
5. That staff be authorized to launch stakeholder consultations as outlined in this report in regard to the Lobbyist Registry and Gift Registry; and
6. That staff commence negotiations with the Integrity Commissioner to assume the role of Lobbyist Registrar, including consultation on the Lobbyist Registry and changes to the Code of Conduct for Members of Council, and report back to Council; and
7. That staff be requested to bring forward for Council approval:
 - a) a by-law to establish the Lobbyist Registry, and
 - b) amended wording for the Code of Conduct for Members of Council to incorporate Lobbyist Registry and Gift Registry provisions; and
8. That staff be requested to bring forward for Council approval amended wording for the Employee Code of Conduct to incorporate Lobbyist Registry and Gift Registry provisions.

Background:

On January 21, 2015 Council directed the City to develop a framework and the necessary mechanisms to administer a Lobbyist Registry and a Gift Registry. Staff reported to Council on February 25, 2015, outlining results of staff research of other municipalities and jurisdictions, discussions and deliberations by the Member Services Committee, and development of frameworks for the Lobbyist and Gift Registries to date.

Both the Lobbyist Registry and Gift Registry fit into the City's existing accountability and transparency policy framework.

The Lobbyist Registry is intended to enhance transparency to the public by providing an accessible record of persons who lobby public office holders outside of a public forum

like Council and Committee meetings or other City-sponsored public forums such as open houses and community meetings.

The Gift Registry would further boost accountability and transparency at the City by requiring Members of Council and City employees to provide periodic reports disclosing the gifts, benefits, and hospitality above a specified threshold amount they have received in a publicly-accessible registry system.

Current Situation:

Lobbyist Registry

The Member Services Committee met on March 2, 2015, to further refine definitions, exemptions and processes for the Lobbyist Registry and the Gift Registry. Committee discussions regarding the Lobbyist Registry included:

- Negotiations with the current Integrity Commissioner to assume the additional role of Lobbyist Registrar.
- Role and authority of the Lobbyist Registrar.
- Further refinements of definitions and exemptions, including:
 - That Members of Council, their staff, and all other City Staff may be subject to registerable lobbying.
 - That certain groups, such as publicly-funded school boards and publicly-funded healthcare agencies should be exempt from the requirement to register with the Lobbyist Registry.
- Consensus that registration with the Lobbyist Registry be a three-step process and include the following information:
 - The lobbyists' name
 - The organization being represented (if applicable)
 - The subject matter
 - Who will be lobbied, and when
 - When lobbying ceases (closure of a lobbying file may be automatic if Lobbyist does not close it).
- Administrative structure required to establish and maintain the Registry.
- Costs associated with establishing and maintaining the Registry (see Financial Implications, below).
- How stakeholders will be consulted.
- Communication and training for Council members, staff, stakeholders and the public once the Registry has been established.

To establish the framework for the Lobbyist Registry, staff have built upon these discussions, further refined definitions and exemptions, and attach as Appendix A, **Framework for the Lobbyist Registry**.

To establish the administrative processes for the Lobbyist Registry, staff have taken inclusions as agreed upon, and attach as Appendix B, **Registration Processes for the Lobbyist Registry**.

Gift Registry

Member Services Committee discussions regarding the Gift Registry included:

- Refined definition of “gift”.
- Restrictions on who may give gifts
- How gifts are used, e.g. donated to Employee Fundraising Campaign or other charitable endeavours.
- Consensus that all gifts received by Council Members and staff with a value of \$50 or more will be registered.
- Costs associated with implementing the Gift Registry will be minimal.
- Communication and training for Council members and staff.

Staff Consultation

Results of deliberations by the Member Services Committee were presented to SMT for their information and input. Staff developing the Lobbyist and Gift Registries will continue to work with staff from all departments to ensure smooth implementation of the Registries, and integration with other accountability and transparency measures.

Stakeholder Consultation

Staff recommends that public and stakeholder consultation begin upon adoption of the recommendations herein, and end before the by-law establishing the Lobbyist Registry and amendments to Council and Employee Codes of Conduct are brought to Council.

- A web page will be established through brampton.ca, providing information regarding the proposed framework and structure for both Registries.
- Council members and staff will be asked to identify stakeholders.
- All identified stakeholders will receive notice that the consultative process has begun.
- Media releases will be issued to encourage the public and stakeholders to participate.
- The web page will remain live for four to six weeks, and will provide opportunities for feedback – online, through email or regular mail, and in person at City Hall.

Results of public and stakeholder consultation will be included with the report recommending passage of the Lobbyist Registry By-law.

Anticipated Timelines

With adoption of the recommendations in this report, the following timelines are anticipated:

Mid-April to End-May

- Drafting of proposed by-law and amendments to Codes of Conduct
- Public and stakeholder consultation

- Creation of forms and processes for Lobbyist and Gift Registries
- Consultation with Integrity Commissioner (as Lobbyist Registrar)

Early June

- Presentation to Council of proposed Lobbyist Registry and amendments to Council and Staff Codes of Conduct
- Presentation to Council of results of public and stakeholder consultation
- Enactment of legislative framework for both Registries

July to December

- Development and implementation of training and communication for Council members, staff, the public and stakeholders
- Further consultation with Integrity Commissioner/Lobbyist Registrar for refinement of framework, processes and tools
- Development of online Lobbyist Registry tools

January, 2016

- Registries fully implemented

December, 2016

- Review of Registries

Corporate Implications:

Financial Implications:

Development of online tools for the Lobbyist Registry will take approximately four months and require approximately \$30,000, primarily for IT staff backfill. Based on current project assumptions, funding for development of the online reporting application will be sourced from existing Corporate Services Department minor capital accounts and resources, with any significant variances or additional funding reported to Council for funding approval.

Time and resources required for development of legislative framework, processes, consultation, communication and training will impact the Corporate Services Department, specifically Council and Administrative Services, Legal Services, Information Technology and Human Resources. Resources will also be required from the Strategic Communications Division of the Office of the Chief Operating Officer. It is anticipated that the amount of work would be the equivalent of one FTE – resources will be required to be diverted from other project and program areas in order to accomplish implementation of the Registries.

Financial implications of adding Lobbyist Registrar responsibilities to the Office of the Integrity Commissioner will be determined through negotiations with the Integrity Commissioner.

Longer term, it is anticipated that full-time operation of the Lobbyist and Gift Registries will require one FTE, performing administrative tasks and policy development. This requirement will form part of a budget request for 2016.

Other Implications:

There are no other implications associated with this report.

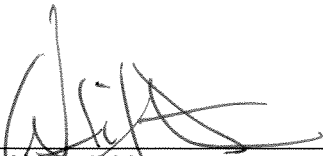
Strategic Plan:

Establishing a Lobbyist Registry framework and a Gift Registry Framework will help achieve all the strategic initiatives under the Strategic Plan, and in particular Community Engagement and Corporate Excellence.

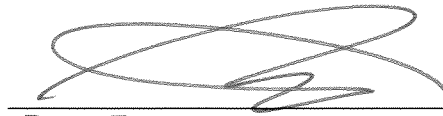
Conclusion:

The establishment of the Lobbyist Registry and Gift Registry are means by which Council can underscore the importance of accountability and transparency at the City of Brampton.

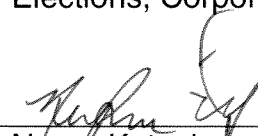
Upon adoption of the recommendations in this report, staff will embark upon public and stakeholder consultation, and continue with development of systems, processes and tools for implementation of the Lobbyist and Gift Registries.



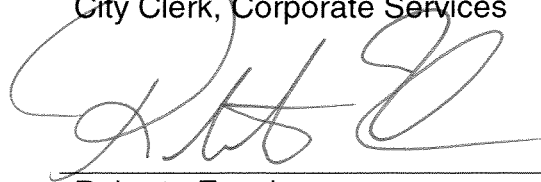
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Roberto Zuech
Acting City Solicitor, Corporate Services

Appendices:

- APPENDIX A - Lobbyist Registry - Definitions to be included in the proposed Lobbyist Registry By-law
- APPENDIX B - Lobbyist Registry - Registration Process
- APPENDIX C - Gift Registry - Proposed Code of Conduct Amendments and Gift Registration Process

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Approval for Submission:		
	Initials	Date
Chair, SMT		
Department Chief		
Chief Administrative Officer		

Lobbyist Registry

Definitions to be included in the proposed Lobbyist Registry By-law

“**Communication**” means any form of expressive contact, including but not limited to a meeting, email, or other electronic messaging, facsimile transmission, letter, phone call, or other meaningful dialogue that falls within the definition of lobbying in either a formal or informal setting.

“**Constituent** means”

- a) With respect to the Mayor:
 - i. An individual who resides in the City; or
 - ii. An owner or operator of a business or other entity located in the City; and
- b) With respect to a Councillor:
 - i. An individual who resides in the Councillor’s ward; or
 - ii. An owner or operator of a business or other entity located in the ward.

“**Lobby**” means any communication with a public office holder by an individual who represents a business or financial interest with the goal of trying to influence any legislative action, including but not limited to the:

- a) development, introduction, passage, defeat, amendment or repeal of a by-law, motion or resolution;
- b) development, approval, amendment, application or termination of a City policy, program, directive, guideline; or
- c) outcome of a decision on any matter before Council, a Committee of Council or a Ward Councillor or staff member acting under delegated authority.

“**Lobbyist**” means,

- a) **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 officer holder and a third party, this is considered lobbying.
- b) **In-house Lobbyist** – an individual who is an employee, partner, sole proprietor and who lobbies on behalf of their own employer, business or organization.
- c) **Voluntary unpaid Lobbyist** – an individual who lobbies without payment on behalf of an individual, business, or other organization for the benefit of the interests of the individual, business or other organization.

“Public Office Holder” means,

- a) A Member of Council and any person on his or her staff;
- b) An officer or employee of the City; and
- c) A Member of a Local Board or Committee established by Council and any person on his or her staff.
- d) An accountability officer appointed under the *Municipal Act, 2001*, including but not limited to: Auditor General, Integrity Commissioner, Lobbyist Registrar, Ombudsman, and Closed Meeting Investigator.

Proposed Exemptions to be included in Lobbyist Registry By-law

- 1. The Lobbyist Registry By-law will not apply to the following persons or bodies acting in their professional capacity:
 - a) Government or public sector, other than the City:
 - i. Members of Senate, House of Commons, legislative assemblies of provincial/territorial governments, persons on the staff of the members;
 - ii. Members of First Nations or Indian band councils, persons on the staff of the members;
 - iii. Employees or consultants retained by the Government of Canada, government of a province or territory, a First Nations or Indian band Council, 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 of the City, persons or staff of the members, or officers or employees of the municipality or local board; and
 - 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 City, the Region of Peel, the Cities of Mississauga and Caledon, and other municipal bodies:

- i. Public office holders;
 - ii. Officers, directors, employees of a local board of the City and acting in their public capacity;
 - iii. Member of an Advisory Committee, acting in their public capacity and appointed by City Council.
 - c) Publicly-Funded School Boards and educational institutions:
 - i. Peel District School Board;
 - ii. Peel Catholic School Board;
 - iii. Ontario French Public School Board;
 - iv. Ontario French Catholic School Board; and
 - v. Universities, colleges, and other publicly-funded educational institutions.
 - d) Publicly-funded Healthcare Institutions, including but not limited to:
 - i. Brampton Civic Hospital; and
 - ii. Peel Memorial Centre for Integrated Health and Wellness
 - e) Municipal Associations, including but not limited to:
 - i. Association of Municipalities Ontario; and
 - ii. Federation of Canadian Municipalities.
2. The Lobbyist Registry By-law will not apply to the following activities:
- a) Communication that is a matter of public record or occurs during a meeting of Council, a Local Board or 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 City or a public office holder or related to an application;
 - c) Communication restricted to a request for information;
 - d) Communication restricted 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 organization regarding:
 - i. The enforcement , interpretation or application of any Act or by-law by the public office holder and with respect to the individual, business or organization,
 - ii. The implementation or administration of any policy, program, directive or guideline by the public office holder and with respect to the individual, business, organization,
 - iii. A personal matter of the individual, business or organization , 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 organization,
- f) Communication by an applicant, an interested party or their representatives with respect to an application for service, grant, planning approval, permit or other license, permission or approval;
 - i. With an employee of the City if the communication is restricted to providing general information on an application, including a proposed or pending application or to inquire about the application or the review process,
 - ii. With an employee of the City if the communication is part of the normal course of an application or approval process for service, grant, planning approval, permit or other licence, permission or approval,
 - iii. If the communication is with an employee of the City who has a role in the processing of a planning 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 a procurement process and any communication with designated employees of the City as permitted in the procurement policies and documents of the City;
- h) Communication with a public office holder by an individual on behalf of an individual, business or organization in direct response to a written request from the public office holder;
- i) Communication to a Member of Council by a constituent of the Member of Council, or an individual on behalf of a constituent of the Member of Council on a general neighborhood or public policy issue;
- j) Communications directly related to those City-initiated consultative meetings where an individual is participating as a stakeholder;

- k) Communication for or against a policy or program that state a position where the primary focus is broad community benefit or detriment, whether City-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 organization on whose behalf the communication is undertaken.

Lobbyist Registry

Registration Process

Registration may take place before lobbying takes place

Registration **must** take place within 5 business days of lobbying commencing

Step 1 – Registration as a Lobbyist:

- Person with intent to lobby must register as lobbyist
- Each person from a common company who engages in lobbying activity must register (consultant and in-house lobbyists);
- Registrar or designate to approve or refuse registration.
- Registration Particulars to include:
 - Name of the lobbyist
 - Name of lobbyist's employer (for consultant lobbyists)
 - Name of person, organization, client, or other entity, on whose behalf he or she is lobbying
- Lobbyist Registration may remain valid for term of Council
 - Registrar's Office to confirm particulars yearly

Step 2 – Registration of Subject Matter:

- Separate subject matter registration for each issue;
- Issue being lobbied will be categorized by broader topic and/or sub-topics as defined by the City or Lobbyist Registrar from time to time (topic list next page)
- Subject matter registration will include:
 - Description of the issue being lobbied
 - Who will be lobbied (specific individuals)
 - When lobbying will begin and end (maximum of one year)
- Registrar to approve or refuse registration
 - Example of reason for refusal
 - attempting to lobby when matter is part of a procurement process,
 - registering when registration is not required – complaint, exchange of factual information, etc.
- Subject matter registration valid for maximum of 12 months
 - May be renewed/extended if necessary

Step 3 – Closure of Subject Matter Registration:

- Subject matter registration shall be closed when lobbying is complete
- May be automatic closure, if registration exceeds one year

Category list for Subject Matter Registration

Agriculture/Rural Affairs

Arts/Culture

Attractions/Tourism

Budget

Building permits/inspection

By-laws/Regulation

Economic Development

Emergency Planning and Services (incl Fire)

Environment

Financial Services

Grants/Funding

Information Technology

Infrastructure

- Construction
- Roads
- Sewers

Licences

Parking

Parks & Recreation

Planning and Development

- Planning Policy
- Environmental Assessment
- Heritage
- Official Plan
- Zoning By-law
- Plan of Subdivision
- Plan of Condominium
- Site Plan
- Minor Variance
- Consent to Sever
- Part Lot
- Combined Application

Procurement

Public Sector Union

Real Estate/Property

Signs

Tax Policy

Transit

Transportation

Water/Sewer

Gift Registry

Proposed Code of Conduct Amendments

a) Proposed Amendments to Member Council Code of Conduct regarding Gifts, Hospitality and Benefits

Current: 4.0. Conduct Respecting Gifts, Hospitality and Benefits

From time to time, gifts, hospitality and benefits are offered and accepted by elected officials in the course of their duties and attendance at public functions. The acceptance of gifts, hospitality and benefits of a nominal value is considered part of the Member's role and responsibilities and are to be received by the Member only in good faith, as an incident of protocol or social obligation. In accepting a gift or benefit, Members of Council are required to be aware of those that would be of pecuniary interest and subject to the *Municipal Conflict of Interest Act*.

Members of Council are entrusted to make decisions based on an impartial and objective assessment of each situation, free from the real or perceived influence of gifts, hospitality or benefits. Regardless of monetary value, the gift, hospitality or benefit could be seen as an instrument of influence, favouritism and bias on the part of the elected official.

To promote transparency and accountability to the public, Members of Council will continue to set a high standard of conduct and be prepared to openly disclose all gifts and benefits that have been received in carrying out their official duties.

Members of Council are encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values for review, appreciating that they are a matter of public record.

Proposed: 4.0. Conduct Respecting Gifts, Benefits and Hospitality

From time to time, gifts, benefits and hospitality are offered and accepted by elected officials in the course of their duties and attendance at public functions. The acceptance of gifts, benefits and hospitality of a nominal value is considered part of the Member's role and responsibilities and are to be received by the Member only in good faith, as an incident of protocol or social obligation. In accepting a gift or benefit, Members of Council are required to be aware of those that would be of pecuniary interest and subject to the *Municipal Conflict of Interest Act*, R.S.O. 1990, c. M.50.

Members of Council are entrusted to make decisions based on an impartial and objective assessment of each situation, free from the real or perceived influence of gifts, benefits or hospitality. Regardless of monetary value, the gift, hospitality or benefit could be seen as an instrument of influence, favouritism and bias on the part of the elected official.

For these purposes, a gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties is deemed to be a gift to that Member.

To promote transparency and accountability to the public, Members of Council will continue to set a high standard of conduct and are encouraged to openly disclose all gifts, benefits and hospitality received from individuals, businesses or associations, appreciating that they are a matter of public record.

While disclosure of all gifts, benefits and hospitality is encouraged, Members of Council shall disclose in a Gift Registry all gifts, benefits, and hospitality received with an individual value of **\$50 CAD or more** from one source in a calendar year.

The Member of Council must specify in the Gift Registry:

- i. The nature of the gift, benefit or hospitality;
- ii. The source of the gift, benefit or hospitality and date of receipt;
- iii. Estimated value of the gift, benefit or hospitality; and
- iv. What the Member of Council intends to do with the gift, benefit or hospitality.

b) **Proposed Amendments to the Employee Code of Conduct regarding Gifts, Benefits and Hospitality**

Current: 1.f. Gifts and Benefits

Gifts should not be solicited by employees. Employees should not allow themselves to reach a position whereby they might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting hospitality.

Proposed: 1.f. Gifts, Benefits and Hospitality

Gifts should not be solicited by employees. Employees should not allow themselves to reach a position whereby they might be or might be deemed by others to have been influenced in making a decision as a consequence of accepting gifts, benefits or hospitality.

For these purposes, a gift, benefit or hospitality provided with the Employee's knowledge to the Employee's spouse, child, or parent that is connected directly or indirectly to the performance of the Employee's duties is deemed to be a gift to that Employee.

In an effort to promote transparency and accountability to the public, Employees will continue to set a high standard of conduct and are encouraged to openly disclose all gifts, benefits and hospitality received from individuals, businesses or associations, appreciating that they are a matter of public record.

While disclosure of all gifts, benefits and hospitality is encouraged, Employees shall disclose in a Gift Registry all gifts, benefits, and hospitality received with an individual value of **\$50 CAD or more** from one source in a calendar year.

The Employee must specify in the Gift Registry:

- i. The nature of the gift, benefit or hospitality;
- ii. The source of the gift, benefit or hospitality and date of receipt;
- iii. Estimated value of the gift, benefit or hospitality; and
- iv. What the Employee intends to do with the gift, benefit or hospitality.

Gift Registry

Gift Registration Process

- For each gift to which the Registry applies, recipient Member of Council or Employees shall complete a Gift Disclosure Statement, which shall include the following information:
 - Name of recipient
 - Nature of Gift/Benefit Received
 - Source of Gift/Benefit
 - Date of Receipt of Gift/Benefit
 - Circumstances under which Gift/Benefit Given and Received
 - Estimated Value of Gift/Benefit
 - Intended Use of the Gift/Benefit: (e.g. will it be donated elsewhere)
- The Gift Disclosure Statement shall be forwarded to the Registrar or designate
- Statements of gifts received shall be posted quarterly on brampton.ca