

Regulation of Municipal Lobbying

ISSUE

Lobbyists may, at times, engage with City Council respecting policy and other decisions of City Council. Should the City implement a lobbying policy or regulation?

BACKGROUND

2.1 History

At a previous meeting, City Council gave direction to the Administration to pursue the creation of a comprehensive protocol policy. As part of those instructions, lobbying was one of the issues directed to be considered.

2.2 Current Status

Lobbying is typically defined as the act of communicating with public office holders in an attempt to influence policy and other decisions. The type of lobbying that legislation tends to regulate is that which seeks to advance business or financial interests. Lobbyists are those who, on behalf of clients for payment, do the lobbying.

Lobbyist registries are often used by provincial or federal governments wherein lobbyists are required to register and have their lobbying activities tracked. The purpose of a registry is to ensure that interactions between lobbyists and public bodies are transparent, public, and accessible. In Saskatchewan, lobbying is only regulated in relation to federal and provincial politics and there is no legislation specifically related to municipal lobbying.

2.3 Public Engagement

Public engagement has not occurred.

2.4 City of Saskatoon's Current Approach

The City currently regulates lobbying directly in Policy No. C02-045, *Purchasing Policy* (the "Purchasing Policy") which requires that all suppliers participating in a City procurement process declare any perceived, possible or actual conflicts of interest. The term "conflict of interest" includes lobbying of the decision-makers involved in the procurement process and more generally communicating with any person with a view to influencing preferred treatment in the procurement process. Similarly, participation in unethical bidding practices, including inappropriate offers of gifts to City officials, officers, employees or agents and inappropriate in-process lobbying or prohibited communications during a procurement process are grounds for suspending a supplier.

Additionally, Bylaw No. 9537, *The Code of Ethical Conduct for Members of City Council Bylaw, 2019* (the “Code of Ethical Conduct”) indirectly regulates lobbying by requiring City Council members to be honest, transparent and accountable, to act in the best interests of the City taking into account the interests of the City as a whole, and it sets out, among other things, that:

Members shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner, other than those discussions that are authorized to be dealt with in a confidential manner in a closed session, so that stakeholders can view the process and rationale used to reach decisions and the reasons for taking certain actions.

and

A member shall not communicate with, solicit or accept support in any form from an individual, group or corporation with any planning, conversion or demolition variance application or procurement proposal pending before Council.

The City also controls requests to meet with City Council that come from community groups whereby the City Clerk screens requests and forwards matters to the Governance and Priorities Committee for a decision on whether City Council as a whole will meet with the group. This practice is not currently formalized in writing and will be brought forward for inclusion in the planned comprehensive Protocol Policy.

2.5 Approaches in Other Jurisdictions

The only municipalities that have mandatory lobbyist registries are those that also have provincial legislation specifically relating to lobbying at the municipal level. Certain municipalities without supporting legislation have voluntary registries. Other municipalities take similar approaches to the City as outlined above. Further information is set out in Appendix 1.

OPTIONS

Option 1 – Status Quo

This option would maintain the current approach as described above. There are no legal, financial or other implications of maintaining the status quo.

Advantages:

- No changes to current practice.
- No expense required to implement.

Disadvantages:

- Fewer tools regulating lobbying.
- Potential lower perception of transparency.

Option 2 – Develop and Implement a Lobbyist Registry

This option would have Administration develop the protocols around a lobbyist registry. A lobbyist registry can either be mandatory where lobbyists must register or face consequences, or they can be voluntary where there are no penalties for non-compliance.

The first step would be to determine if the City has the legal authority to implement a registry. While the City most likely has the authority to implement a voluntary lobbyist registry given that there are no penalties and lobbyists would not be legally required to register, it is less clear whether the City could implement a mandatory registry. Other municipalities, as outlined in Appendix 1, have mandatory lobbyist registries; however, they also have provincial legislation supporting such regulation. Saskatchewan does not have similar legislation.

There would be financial implications as implementing, maintaining and enforcing a registry would have costs associated such as employee time and maintaining a database. As an example, it was reported that Hamilton's mandatory lobbyist registry cost \$100,000 to implement and \$115,000 per year (as of 2014) to operate. The precise nature of potential costs would need to be further investigated.

Advantages:

- Potential higher perception of transparency in decision making.
- A single source for individuals to view lobbyist activities.

Disadvantages:

- Uncertainty with respect to legal authority to implement mandatory registry.
- Lack of enforcement mechanisms respecting voluntary registry.
- Cost associated with implementing, maintaining and enforcing a registry.

Option 3 – Pursue a Lobbying Policy

This option would have Administration pursue the possibility of implementing a lobbying policy. The policy would outline how members of City Council were to interact with lobbyists. That is to say, rather than regulating the activity of lobbyists through a registry, the activity of City Council members in interacting with lobbyists is regulated through a policy instead.

Advantages:

- Potential higher perception of transparency in decision making.
- A single source for City Council members on how to deal with lobbyists.

Disadvantages:

- Potential confusion regarding overlapping regulations and rules that are currently in place as outlined in the current approach described above.
- Duplication of work in relation to the regulations and rules currently in place.

RECOMMENDATION

That the Governance and Priorities Committee recommend to City Council that Option 1 – Status Quo be approved.

RATIONALE

Option 1 is recommended because the City already regulates lobbying, albeit more indirectly as compared to the implementation of a lobbyist registry or lobbying policy. This is done through other documents such as the Purchasing Policy and the Code of Ethical Conduct. Given recent work to enhance and implement the current iteration of the Code of Ethical Conduct, it is not recommended to implement further policies or procedures, being options 2 and 3, which may interfere with the current approach by creating overlapping responsibilities and potential confusion.

Option 2 is additionally not recommended given the uncertainty surrounding the legal jurisdiction to implement a mandatory lobbyist registry and the lack of enforcement mechanisms respecting a voluntary registry as well as the potential costs associated with implementing, maintaining, and enforcing a registry.

At this time, the Administration views the current approach as sufficient. In the event that this changes in the future, further reporting is available, and the options contained in this report may be brought forward again.

ADDITIONAL IMPLICATIONS/CONSIDERATIONS

Should the recommendation to maintain the status quo be approved, there are no further implications for consideration.

COMMUNICATION ACTIVITIES

No communication obligations arise if the recommendation to maintain the status quo is approved.

APPENDIX

1. Jurisdictional Scan

Report Approval

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