



## CITY OF VANCOUVER

### ADMINISTRATIVE REPORT

Report Date: April 14, 2008  
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Meeting Date: May 15, 2008

TO: Vancouver City Council

FROM: City Clerk

SUBJECT: Lobbyists and Lobbying Activity - Follow Up re Roles, Relationships, and Responsibilities Review

#### CONSIDERATION

- A. THAT Council receive this report for information.
- OR
- B. THAT Council request the Province of British Columbia to amend the Vancouver Charter to include the necessary and appropriate authorities to allow for the enforcement of a lobbying policy and the related lobbyist code of conduct.

#### CITY MANAGER'S COMMENTS

The creation of a lobbyist disclosure system for the City of Vancouver would require amendments to the *Vancouver Charter* to provide the necessary authority.

The establishment of such a system would be a very significant step for the City. The public benefit is being able to know who is lobbying on matters before Council. The private inconvenience is the responsibility to comply with whatever disclosure is required. The administrative cost will range from moderately low to high depending on the complexity of the disclosure required.

#### COUNCIL POLICY

There is no applicable Council Policy.

## **PURPOSE**

To respond to Council's request for more information on lobbying and lobbying activity.

## **BACKGROUND**

At the Regular Meeting of Council on January 17, 2006 Council approved the terms of reference for the Roles, Relationships and Responsibilities Review and established a committee of community members to undertake the Review. As part of the Review, the Committee developed a proposed Code of Conduct to apply to Council, advisory bodies and City staff.

On July 20, 2006 at the Standing Committee on Planning and Environment, Council considered the recommendations put forward by the Review Committee. At that time Council resolved:

THAT Council request the City Manager to provide Council by December 2006 a definition of "Lobbying activities" and "Lobbyists" in the context of a possible corporate policy relating to lobbying and a code of conduct for "lobbyists"; and

FURTHER THAT the City Manager define the issues and concerns which led to this recommendation.

## **DISCUSSION**

### **Lobbying - An Overview**

Lobbying is advocacy of a point of view, either by groups or individuals - be it non-profit organizations such as associations, charities, community groups, trade associations, and special interest groups, corporations carrying on commercial activities for financial gain, other governments, colleges and universities, and, of course, consultant lobbyists who, for payment, lobby on behalf of a client. Its purpose is to influence or attempt to influence decision-makers (for example, politicians and City officials) regarding a legislative or administrative action or decision. Such "influencing" involves communication for the purpose of promoting, supporting, changing, opposing, or otherwise intentionally affecting the official actions of a Councillor, or City official.

Lobbying is a legitimate and necessary part of our democratic political process. Government decisions affect both people and organizations, and information must be provided in order to produce informed decisions. Public officials cannot make fair and informed decisions without considering information from a broad range of interested parties. All sides of an issue must be explored in order to produce equitable government policies and laws.

In recent years, lobbying has become of increasing interest to governments at the federal, provincial, and municipal levels. This interest has been driven by a number of factors - particularly the move by governments to increase accountability to the public by becoming more transparent. In response, governments are putting in place lobbying policy whereby lobbyists are required to both register and disclose the nature of their lobbying activity and abide by certain standards of conduct. The intent of registration is not to curtail or prohibit

lobbying but rather is focused on making it visible. Governments and legislators are entitled to know the pressures that are being brought to bear on their actions and the public in an open society should be able to know those pressures or influences as well. It is not so much about control as about transparency.

Codes of conduct for lobbyists are about appropriate lobbying conduct short of criminal activity. They are not about prohibiting contact itself or limiting contact in some way. Such codes are intended to ensure a publicly responsible mode of lobbying.

### **Lobbying Policy Models**

At present, the majority of municipal governments do not have lobbying policies but rather indirectly address some of the lobbying issues through other policies that cover gifts and benefits, conflict of interest, campaign contributions, and codes of conduct. Other government bodies do implement lobbying policies. These policies vary in their degree of complexity but include:

- rules defining who is and is not considered a lobbyist;
- a registry system; and
- an enforcement mechanism.

In addition, government bodies may supplement the above and implement a lobbyist code of conduct.

#### **Basic Lobbyist Policy - Registry**

Lobbying registries vary in the types of information that lobbyists are required to provide as well as what types of organizations are considered to be a lobbyists for registry purposes. For example, registries may be fairly simple and only require basic information such as the lobbyist's name, the person on whose behalf they are lobbying, and general areas of lobbying activity.

On the other hand, government bodies may choose to implement registries that are referred to as "disclosure" registries. These registries are much more detailed, and lobbyists are required to provide not only the basic information but also detail such as:

- public offices held by the lobbyist if a former public office holder;
- information on the principles of the client;
- any organizations/persons that control the client's activities;
- names of parent and/or subsidiary businesses of the (business) client that may benefit from the lobbying;
- names/addresses of client coalition members;
- type of contact the lobbyist expects to have with public officials;
- name of any politician or public official lobbied or expected to be lobbied;
- nature of the decision that the lobbyist hopes to influence;
- source and amount of any government funding; and
- whether lobbyist payment is contingent upon success of lobbying efforts.

In some instances, lobbyist registries have been implemented without a lobbying policy. For example, the City of Toronto used a voluntary lobbyist registry as a stop-gap measure while awaiting the legislative authority to implement a formal lobbying control framework (policy). Participating councillors kept a simple register in their office and required all lobbyists to sign in. At the end of each month, councillors sent a copy of their register to the City Clerk's Office, where it was available for public review.

In other instances, the government body implements policy or law governing lobbying. As an example, the Province of British Columbia adopted the *Lobbyists Registration Act* which includes a lobbyist registration system administered by the Ministry of the Attorney-General, through a Registrar's Office. The public can access registry information online, or through the Ministry.

Under this model, "lobbying" occurs when a paid lobbyist communicates with a public office holder in an attempt to influence legislation, bills, resolutions before the Legislative Assembly, regulations, government policies or programs, contracts, grants, contributions, or - in the instance of consultant lobbyists - arranging a meeting between a public office holder and any other person. Public office holders include both politicians, public servants, and defined others.

The Act sets out those that must register as well as those not required to register. Similarly, it defines what is and is not considered lobbying.

Typically, lobbyist registries identify three types of lobbyists that are required to register. They are:

1. Consultant lobbyists who are paid on contract to lobby on behalf of clients. They may include government relations consultants, lawyers, accountants and other professionals.
2. In-house lobbyists employed by businesses that carry on activities for financial gain. They are not considered lobbyists until they meet a threshold whereby a defined percentage of their work for the business consists of lobbying activities.
3. Senior officers of not-for-profit organizations who either lobby directly themselves or employ staff who spend a defined minimum amount of their time on lobbying activities are considered lobbyists. This includes business, trade and professional associations, labour organizations, chambers of commerce and boards of trade, and charitable and interest groups.

### **Enhanced Lobbying Policy - Registry and Code of Conduct**

The more comprehensive models include not only a lobbyist registry with rules and an enforcement mechanism but also a code of conduct for governing lobbyist behaviour. The Federal government and the City of Toronto have each instituted such codes of conduct, and both have lobbyist registrars responsible for administering the registry and investigating complaints. Their registries have an underlying structure that is similar to the Province's model, with some modifications and additions for their particular circumstances.

Lobbyist codes of conduct are meant to complement registries and enhance public confidence in the integrity and impartiality of public officials by assuring the public that lobbyists must abide by certain standards of ethical conduct. Although some professional organizations, such

as the Public Affairs Association of Canada (PAAC), have a statement of ethical principles for their members, these principles are followed voluntarily, and not all lobbyists belong to professional organizations. They are not enforceable. By contrast, both the Federal and City of Toronto models have enforcement mechanisms in place.

Generally, both codes contain provisions related to:

- Standards of behaviour
- Disclosure of identify and purpose
- Restricted and prohibited activities
- Confidentiality
- Insider information
- Competing interests and improper influence
- Penalties for breach

### Lobbying at the City of Vancouver

Greater integrity, accountability or transparency may be achieved through a lobbying policy, but careful consideration must be given so that any policy does not place too great a burden on the ability of citizens to participate in the democratic process. It is a balancing act - set policy that allows for the collection of meaningful information while deterring abuse, on the one hand, and on the other hand, ensuring that the policy is not so onerous that it stifles valuable debate or results in significant costs versus the benefits of having the policy.

For the City of Vancouver, it should be noted that some aspects of lobbying activities are covered by other policies and legislation, such as the Code of Conduct that recently was adopted in principle by Council, campaign financing rules, conflict of interest legislation, and the criminal law. Regardless, there are benefits of transparency and accountability to be had in developing and implementing a lobbying policy for the City. The trend in Canada is towards such policy - particularly lobbying frameworks that include both a registry and code of conduct.

However, the effectiveness of lobbying policy hinges on enforceability. The power to enforce does not exist under the *Vancouver Charter*. Therefore, if Council wishes to establish a lobbying policy and a code of conduct for lobbyists, staff recommend that Council request that the Province amend the *Vancouver Charter* to include the necessary and appropriate authorities to allow for the creation and enforcement of a lobbying policy, including a registry and the related lobbyist code of conduct.

### FINANCIAL IMPLICATIONS

There are no financial implications if Council decides not to request statutory authority to implement a lobbyist disclosure system. There is a range of possible cost, from moderately low to high, dependent on the requirements that such statutory authority requires or permits, if authority is requested and obtained.

## CONCLUSION

Lobbying is a legitimate and necessary part of our democratic political process. To date, many government bodies have dealt with potential lobbying problems through indirect means, such as policies that cover gifts and benefits, conflict of interest, campaign contributions, and codes of conduct. Other government bodies do implement lobbying policies, and municipal governments are starting to follow this trend. These policies vary in their degree of complexity, but the most important common feature is an enforcement mechanism.

If Council wishes to establish a lobbying policy and a code of conduct for lobbyists, staff recommend that Council request that the Province amend the *Vancouver Charter* to include the necessary and appropriate authorities to allow for the creation and enforcement of a lobbying policy, including a registry and the related lobbyist code of conduct.

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