



Staff Report

Administration – Town Clerk

Report To: COW_Finance_Admin_Fire_Community_Services
Meeting Date: August 26, 2024
Report Number: FAF.24.097
Title: Establishment of a Lobbyist Registry By-law
Prepared by: Corrina Giles, Town Clerk

A. Recommendations

THAT Council receive Staff Report FAF.24.097, entitled “Establishment of a Lobbyist Registry By-law”;

AND THAT, in accordance with section 223.11 of the Municipal Act, 2001, Council appoints the Integrity Commissioner of the Town of The Blue Mountains as the Lobbyist Registrar for the Town of The Blue Mountains;

AND THAT, Council authorizes the Mayor and Clerk to execute an agreement with the Town’s Integrity Commissioner, Principles Integrity, for the provision of Lobbyist Registrar services, with the term to run concurrent with the Agreement that provides for the provision of Integrity Commissioner services, to March 31, 2028

B. Overview

This report seeks Council authorization to enter into an agreement with the Town’s Integrity Commissioner to provide Lobbyist Registrar services, to run concurrent with the current agreement that provides for the provision of Integrity Commissioner services, to March 31, 2028.

C. Background

This report is provided to Council, further to staff report [FAF.24.036 Follow-Up to Public Meeting Regarding the Establishment of a Lobbyist Registry](#), and the subsequent recommendation of the Accountability and Transparency Committee as approved by Council at the July 15, 2024 Council Meeting, that provides:

THAT Council of the Town of The Blue Mountains receives the following recommendation from the Accountability and Transparency Committee dated June 13, 2024:

THAT the Accountability and Transparency Committee receives for information the draft Lobbyist Registry By-law.

AND THAT the Accountability and Transparency Committee requests that the Town Clerk amend the draft Lobbyist Registry By-law to change the introductory statement to refer to business, individuals or any other entity and removing reference to "for-profit" as well as removing item 4.(k) entirely, under the section title Exempted Activities.

AND THAT the Accountability and Transparency Committee requests the Town Clerk to provide the draft Lobbyist By-law and FAQ as developed by the Communications Department, to the July 8, 2024, Committee of the Whole meeting for Council consideration. CARRIED.

AND THAT Council considers the recommendation to amend the draft Lobbyist Registry By-law to change the introductory statement to refer to business, individuals or any other entity and removing reference to "for-profit" as well as removing item 4. (k) entirely, under the section title Exempted Activities;

AND THAT Council directs the Town Clerk to provide the draft Lobbyist By-law and FAQ as developed by the Communications Department, to the August 26, 2024, Committee of the Whole meeting for Council consideration.

The motion is Carried

As directed by Council, reference to "for-profit" was removed from paragraph 1c) of the draft bylaw as it relates to "Voluntary Unpaid Lobbyist" as noted below:

"Voluntary Unpaid Lobbyist": an individual who lobbies without payment on behalf of an individual, business or any other **for-profit** entity for the benefit of the interests of the individual, business or **for-profit** entity.

And, paragraph 4k) (provided below for reference) has been removed from the draft by-law:

- k) Communications regarding a business or financial interest by not-for-profit businesses or other not-for-profit entity where such business or entity has no paid staff.

D. Analysis

In response to Council direction provided to date, staff recommend that Council appoint the Town's Integrity Commissioner as the Lobbyist Registrar for the Town, with the appointment to run concurrent with the term of the agreement with the Integrity Commissioner.

Attached to this report is the draft Lobbyist Registry Bylaw to be considered for enactment by Council. I confirm that the "Section 9: Enforcement and Penalties" portion of the By-law will come into force and effect six months after the enactment of the By-law. This grace period will allow time for the Lobbyist Registrar to provide training to Council, staff and the public in open session, and for all to become familiar with the requirements of the Lobbyist Registry Bylaw.

Attached as Schedule A to the draft Lobbyist Registry Bylaw is the Lobbyist Code of Conduct. Those registering as a Lobbyist will be required to acknowledge that they have read and understand their responsibilities under the Lobbyist Code of Conduct

Also attached to this report is the draft Frequently Asked Questions (“FAQ”) document that will be included on the Lobbyist Registry webpage currently being developed by the IT Department.

Staff confirm that the Lobbyist Registrar will attend a future Council meeting to provide training to Council, staff and the public on our collective responsibilities under the Lobbyist Registry Bylaw.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

2. Organizational Excellence

We will continually seek out ways to improve the internal organization of Town Staff and the management of Town assets.

F. Environmental Impacts

None

G. Financial Impacts

The financial impact of enacting a Lobbyist Registry will include the fees as submitted by the Lobbyist Registrar. The fees will include responding to enquiries, providing training and advice, opinions and interpretation pertaining to the administration, application and enforcement of the Lobbyist Registry By-law, providing an annual report to Council and any other reports as the Lobbyist Registrar considers appropriate.

H. In Consultation With

CAO Shawn Everitt
Accountability and Transparency Committee
Jeff Abrams, Principles Integrity

I. Public Engagement

The topic of this Staff Report has been the subject of a Public Meeting which took place on April 18, 2023. Those who provided comments at the Public Meeting, including anyone who has asked to receive notice regarding this matter, has been provided notice of this Staff Report. Any comments regarding this report should be submitted to Corrina Giles, Town Clerk, townclerk@thebluemountains.ca.

J. Attached

1. Draft Lobbyist Registry Bylaw
2. Draft Frequently Asked Questions ("FAQ")

Respectfully submitted,

Corrina Giles
Town Clerk

For more information, please contact:
Corrina Giles, Town Clerk
townclerk@thebluemountains.ca
519-599-3131 extension 232

Report Approval Details

Document Title:	FAF.24.097 Establishment of a Lobbyist Registry By-law.docx
Attachments:	- Attachment 1 Draft-Lobbyist-Registry-By-law FINAL.docx - Attachment 2 FAQ - JUST AN EXAMPLE - NOT FINAL DOCUMENT.pdf
Final Approval Date:	Jul 23, 2024

This report and all of its attachments were approved and signed as outlined below:

Shawn Everitt - Jul 23, 2024 - 6:54 AM

The Corporation of the Town of The Blue Mountains

By-Law Number 2024 –

Being a By-law to Establish and Maintain a Lobbyist Registry for The Corporation of the Town of The Blue Mountains

Whereas access to local government is an essential element of democratic governance;

And Whereas lobbying by honest and appropriate means is a legitimate activity;

And Whereas Council desires to establish and maintain a Lobbyist Registry and appoint a Lobbyist Registrar to provide transparency about persons who Lobby the Town of The Blue Mountains Public Office Holders;

And Whereas section 223.9 of the Municipal Act, 2001 authorizes the Town of The Blue Mountains to establish and maintain a Lobbyist Registry in which shall be kept registrations and returns filed by persons who Lobby the Town of The Blue Mountains Public Office Holders;

And Whereas section 223.11 of the Municipal Act, 2001 authorizes the Town of The Blue Mountains to appoint a Lobbyist Registrar who is responsible for performing in an independent manner the functions assigned by the Town of The Blue Mountains with respect to the Lobbyist Registry;

And Whereas sections 8, 9 and 10 of the Municipal Act, 2001 authorize the Town of The Blue Mountains to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 10(2) authorizes by-laws respecting the accountability and transparency of the municipality and its operations;

Now Therefore Council of The Corporation of the Town of The Blue Mountains enacts as follows:

1. Definitions

For the purposes of this By-law:

“Communication” means any substantive form of communication including a formal meeting, email, letter, phone call or meaningful dialogue or exchange that materially advances a matter that is defined as lobbying, whether in a formal or an informal setting.

“Council” means the Council of The Corporation of the Town of The Blue Mountains.

“Lobby” or “Lobbying” means any communication with a Public Office Holder by an individual who is paid or who represents a business or financial interest with the goal of trying to influence any legislative action including development, introduction, passage, defeat, amendment or repeal of a by-law, motion, resolution or the outcome of a decision on any matter before Council, a Committee of Council, or a staff member acting under delegated authority.

“Lobbyist” means:

- a) **“Consultant Lobbyist”**: an individual who lobbies for payment on behalf of a client (another individual, a business, partnership, organization or other entity):
- b) **“In-house Lobbyist”**: an individual who is an employee, partner or sole proprietor and who lobbies on behalf of their own employer, business or other entity; and
- c) **“Voluntary Unpaid Lobbyist”**: an individual who lobbies without payment on behalf of an individual, business or any other entity for the benefit of the interests of the individual, business or entity.

“Lobbyist Registrar” means the individual appointed by Council in accordance with section 223.11 of the Municipal Act, 2001.

“Lobbyist Registry” means a system of registration in which shall be kept the registrations and returns of persons who Lobby Public Office Holders and which shall include such information as determined by the Lobbyist Registrar.

“Public Office Holder” means:

- a) A member of Council;
- b) An officer or employee of the Town in a management position or with decision making powers or who have direct contact with Council, Committee and/or Local Board;
- c) A member of a Local Board or Committee established by Council;
- d) Employees who work on municipal elections in a supervisory role;
- e) An Accountability Officer, including but not limited to the integrity Commissioner, the Lobbyist Registrar, Ombudsman, and Closed Meeting Investigator;
- f) Individuals providing professional services to the Town during the course of providing such services.

“Registration” means a first filing by a Lobbyist regarding a subject matter that the Lobbyist intends to Lobby on as set out in subsection 8(1).

“Return” means an update of a Registration filed by a Lobbyist as set out in subsection 8(2).

“Town” means The Corporation of the Town of The Blue Mountains.

2. Establishment of a Lobbyist Registry

- 2.1. The Lobbyist Registry is established pursuant to Section 223.9 of part V.1 of the Municipal Act, 2001.
- 2.2. The Lobbyist Registry shall be available for public inspection through electronic, web-based access at all reasonable times.
- 2.3. The Lobbyist Code of Conduct is attached hereto as Schedule “A” and forms part of this By-law.

3. Exempted Persons and Organizations

- 3.1. This By-law does not apply to the following persons when acting in their public capacity:
 - a) Government or public sector not including the Town and other municipal bodies:
 - i. Members of the Senate or House of Commons of Canada, the legislative assembly of a province, the council or legislative assembly of a territory, or persons on the staff of the members;
 - ii. Members of a First Nation Council as defined in the Indian Act or of the Council of an Indian Band established by an Act of the Parliament of Canada, or persons on the staff of the members;
 - iii. Employees or consultants retained by the Government of Canada, the government of a province or territory, a First Nation Council, a 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 the Town, persons on staff of the members, or officers or employees of the municipality or local board;
- v. Members of a national or sub-national foreign government, persons on the staff of members, or officers, employees diplomatic agents, consular officers or official representatives in Canada of the government.

3.2 Officials and employees of the Town and other municipal bodies:

- a) Public Office Holders;
- b) Members or employees of a Local Board of the municipality;
- c) Members of an Advisory Committee appointed by Council.

3.3 Other public sector:

- a) Persons communicating on behalf of local school boards;
- b) Persons communicating on behalf of healthcare institutions.

4. Exempted Activities

4.1. Lobbying does not include:

- a) communication that occurs during a meeting of Council or a 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 Town or a Public Office Holder or related to an application;
- c) communication that is restricted to a request for information;
- d) communication that is 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 entity about:
 - 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 other entity;
 - ii. the implementation or administration of any policy, program, directive or guideline by the Public Office Holder and with respect to the individual, business or other entity;
 - iii. a personal matter of the individual, business or other entity 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 other entity;
- f) communication by an applicant, an interested party or their representatives with respect to an application for a service, grant, planning approval, permit or other license or permission:
 - i. with a Public Office Holder if the communication is restricted to providing general information on an application, including a proposed or pending application, or to inquire about the application review process;

- ii. with an employee of the Town if the communication is part of the normal course of the approval process;
 - iii. with an employee of the Town if the communication is with respect to planning or development applications and the officer or employee has a role in the processing of a planning or development 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 the procurement process and any communication with designated employees of the Town as permitted in the procurement policies and procurement documents of the Town;
 - h) Communication with a Public Office Holder by an individual on behalf of an individual, business or other entity in direct response to a written request from the Public Office Holder;
 - i) Communication to a Public Office Holder by a constituent, or an individual on behalf of a constituent on a general neighbourhood or public policy issue;
 - j) Communication directly related to those Town-initiated consultative meetings and processes where an individual is participating as a stakeholder; communication for or against a policy or program that state a position where the primary focus is a broad community benefit or detriment, whether Town-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 entity on whose behalf the communications is undertaken;
- 4.2. The Lobbyist Registrar may exempt Lobbying from some or all the requirements of this By-law if they are satisfied in advance by a Lobbyist that a registration could reasonably be expected to prejudice the economic interests of the Town of The Blue Mountains or the competitive position of the Town of The Blue Mountains.

5. Prohibitions

- 5.1. No person, on whose behalf another person undertakes Lobbying activities, shall make a payment for the Lobbying activities that is in whole or in part contingent on a successful outcome of any Lobbying activities.
- 5.2. No person who lobbies a Public Office Holder shall receive payment that is whole or in part contingent on the successful outcome of any Lobbying activities.
- 5.3. No former Public Office Holder shall engage in Lobbying activities for a period of twelve (12) months after ceasing to be a Public Office Holder of the Town.

6. Lobbyist Registrar

- 6.1. The Town shall appoint a Lobbyist Registrar in accordance with section 223.11 of the *Municipal Act, 2001*.
- 6.2. The Integrity Commissioner may also serve as the Lobbyist Registrar.
- 6.3. If the Office of the Lobbyist Registrar is vacant, the Town of The Blue Mountains Town Clerk is authorized to assume the role of the Lobbyist Registrar for an interim period.

6.4. The Lobbyist Registrar's responsibilities include:

- a) Overseeing the establishment and maintenance of a Lobbyist Registry, including determining the Lobbyist Registry's form and content, in which shall be kept the registrations and returns filed by Lobbyists under section 8 of this By-law;
- b) Making the Lobbyist Registry available for public inspection through electronic, web-based access at all reasonable times, namely;
 - i. That a Registration or Return is on the Lobbyist Registry within a reasonable timeframe after it is filed;
 - ii. That the Lobbyist Registry is accessible except during regular maintenance or due to circumstances beyond the Town of The Blue Mountains control.
- c) Providing advice, opinions and interpretation pertaining to the administration, application and enforcement of this By-law;
- d) Conducting inquiries in respect of a request made about compliance with this By-law, which may include requesting that a Public Office Holder gather information concerning Lobbying of them and provide that information to the Lobbyist Registrar;
- e) Suspending, revoking or refusing a Registration or Return;
- f) Enforcing this By-law;
- g) Advising Council on Lobbying matters and recommending improvements to this By-law; and
- h) Providing an annual report to Council and any other reports as the Lobbyist Registrar considers appropriate.

7. Responsibilities of a Public Office Holder

7.1. A Public Office Holder's responsibilities include:

- a) responding to a request from the Lobbyist Registrar under subsection 6.4(d) to gather and provide information; and
- b) ending Lobbying by a Lobbyist who is prohibited from Lobbying and reporting, such Lobbying to the Lobbyist Registrar.

7.2. Except when responding to a request from the Lobbyist Registrar under subsection 6.4(d), a Public Office Holder's responsibilities under this By-law do not include gathering or providing information concerning Lobbying of them.

8. Registrations, Returns and Reporting of Lobbying Activity

8.1. All Lobbyists shall file a Return regarding Lobbying communication within ten (10) business days of the initial communication occurring.

8.2. The Registration shall include:

- a) Their name, address and contact information;
- b) If they are a Consultant Lobbyist, In-House Lobbyist or Voluntary Unpaid Lobbyist:
- c) The name of the individual, client or other entity, including all business names under which the individual, client or other entity is operating, on whose behalf he or she is Lobbying;
- d) The name of the individual or individuals he or she is Lobbying;

- e) The subject matter and date on which the Lobbying will start and finish, with the date on which the Lobbying starts; and
 - f) Such further information as the Lobbyist Registrar may require.
- 8.3. A Lobbyist shall file a Return updating any change to their Registration immediately.
- 8.4. If Lobbying continues for more than one (1) year, a Lobbyist shall file a new Registration for each year the Lobbying continues.
- 8.5. The Lobbyist is solely responsible for meeting the requirements with respect to Registrations and Returns set out in this section.
- 8.6. Lobbyist shall read and adhere to the Lobbyist Code of Conduct during all Lobbying activities with Public Office Holders.

9. Enforcement and Penalties

- 9.1. The Registrar may impose a temporary ban on communication in accordance with the following scheme if the Registrar finds that the requirements of this By-law and Lobbyist Code of Conduct have not been met:
- a) for 30 days for a first contravention;
 - b) for 60 days for a second contravention;
 - c) for a period of time longer than 60 days as determined by the Lobbyist Registrar for a third or subsequent contravention.
- 9.2. When the Lobbyist Registrar prohibits an individual from Lobbying, the Lobbyist Registrar:
- a) Shall notify the individual and all Public Office Holders of the prohibition and the reason for the prohibition in such manner as the Lobbyist Registrar determines; and
 - b) May post the prohibition and the reason for the prohibition on the website.
- 9.3. The Lobbyist Registrar may remove a Registration or Return from the Lobbyist Registry if the Lobbyist Registrar finds that the individual who filed the registration or return has contravened this By-law.
- 9.4. When a Registration or Return is removed from the Lobbyist Registry, the individual who filed the Registration or Return is deemed, for the purposes of their existing and future obligations under this By-law, not to have filed the Registration or Return.
- 9.5. In accordance with subsection 223.12(7) of the Municipal Act, 2001, should the Lobbyist Registrar determine, when conducting an inquiry, that there are reasonable grounds to believe that an individual has contravened a provincial Act or the Criminal Code of Canada, the Lobbyist Registrar shall immediately refer the matter to appropriate authorities and suspend the inquiry pending the outcome of any resulting police investigation.

10. Title, Scope, and Interpretation

- 10.1. This By-law shall be known as the "Lobbyist Registry By-law".
- 10.2. In the event of a conflict between the provisions of this by-law and the provisions of another by-law of The Corporation of the Town of The Blue Mountains, the provisions of the more restrictive enactment shall prevail.

10.3. In the event any provision, or part thereof, of this by-law is found by a court of competent jurisdiction, to be ultra vires, such provision or part thereof, shall be deemed to be severed and the remaining portion of such provision and all provisions of this by-law shall remain in full force and effect.

THAT This By-law shall come into force and effect on insert date, 2024, with the exception of Section 9: Enforcement and Penalties, which is to come into force and effect 6 months (insert actual date), 2024, hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

And Further that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this ____ day of _____, 2024

Andrea Matrosovs, Mayor

Corrina Giles, Town Clerk

DRAFT

SCHEDULE A
Attached by By-law 2024-

Lobbyist Code of Conduct

1. Lobbyists are expected to comply with the standards of behaviour for Lobbyists and the conduct of Lobbying activities set out in this Code of Conduct when Lobbying Public Office Holders.
2. Honesty: Lobbyists shall conduct themselves with honesty and integrity in all dealings with Public Office Holders, clients, employers, the public and other Lobbyists.
3. Openness: Lobbyists shall be open and transparent about their Lobbying activities at all times while maintaining necessary confidentiality.
4. Disclosure or Identity and Purpose:
 - a. Lobbyist communications with Public Office Holders shall, at all times, disclose the identity of the individual, business or organization on whose behalf they are Lobbying, as well as the subject matter of the communications;
 - b. Lobbyists shall register their name and company information and all Lobbying activity with Public Office Holders according to the Lobbyist By-law in the Lobbyist Registry.
5. Information and Confidentiality:
 - a. Lobbyists shall inform their client, employer, or organization of the obligations under the Lobbyist Registry By-Law and their obligations to adhere to the Lobbyist Code of Conduct;
 - b. Lobbyists shall provide information that is accurate and factual to Public Office Holders;
 - c. Lobbyists shall not knowingly mislead anyone and shall use proper care to avoid doing so inadvertently;
 - d. Lobbyists shall not divulge confidential information unless they have obtained informed consent of their client, employer or organization or unless disclosure is required by law;
 - e. Lobbyists shall not use any confidential information obtained in the course of their Lobbying activities to the disadvantage of their client, employer or organization.
6. Competing Interests:
 - a. Lobbyists shall not represent conflicting or competing interests without the written consent of those involved;
 - b. Lobbyists shall advise Public Office Holders that they have informed their clients of any potential or actual conflict of interest and obtained the written consent of each client concerned before proceeding or continuing with Lobbying activities;
 - c. Lobbyists shall not Lobby Public Office Holders on a subject matter for which they provide advice to the Town.
7. Improper Influence:
 - a. Lobbyists shall avoid both the deed and the appearance of impropriety;
 - b. Lobbyists shall not knowingly place a Public Office Holder in a conflict of interest or in a breach of the Council or Staff Code of Conduct.

8. Restriction on Communication:

- a. Lobbyists shall not communicate with Public Office Holders in relation to a procurement process except as stipulated in the Town's Procurement documents and the Town's Procurement Policy;
- b. Lobbyists shall not engage in Lobbying activities where the Lobbyist Registrar has prohibited them from Lobbying Activities with the Town for a specified time period.

DRAFT