

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Options for Lobbying Rules & Guidelines

Option	Description	Analysis
<p>Option A – No lobbyist rules or guidelines established for the time period prior to the issuance of the request for proposals for the Northern Six Waste Collection Contract (2017-2027) (status quo).</p>	<p>No lobbyist rules or guidelines established for the time period prior to the issuance of the request for proposals for the Northern Six Waste Collection Contract (2017-2027).</p> <p>Individual Members of Council use their own discretion when communicating (in person, by telephone, by e-mail, or other means electronic or otherwise) with potential proponents, which may include, among other scenarios:</p> <ul style="list-style-type: none"> - Refusing or not acknowledging communication with potential proponents; - Allowing communication with potential proponents for the purpose of providing process information only, or to acknowledge receipt or to indicate communication will be passed on to a relevant Town employee; or - Allowing any form of communication. <p>Communications from potential proponents to Town staff will be referred to Procurement Department staff (current practice).</p>	<p>Pros</p> <ul style="list-style-type: none"> - Status quo and no administrative resources required. <p>Cons</p> <ul style="list-style-type: none"> - No rules or guidelines differentiating lobbying communications from other communications. - Inconsistency in approaches taken by individual Members of Council when communicating with potential proponents. - No requirement for disclosure of communications with potential proponents through a public registry.

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Option	Description	Analysis
<p>Option B – Newmarket Council motion to restrict Member of Council communication with potential proponents prior to the issuance of the request for proposals for the Northern Six Waste Collection Contract (2017-2027), with the exception of acknowledging and referring potential proponents to Procurement Department staff.</p>	<p>Draft motion:</p> <p>“That communication between Members of Council with potential proponents prior to the issuance of the request for proposals for the Northern Six Waste Collection Contract (2017-2027) be limited to acknowledging and referring potential proponents to Procurement Department staff.”</p> <p>Communications from potential proponents to Town staff will be referred to Procurement Department staff (current practice).</p> <p>Members of Council and Town staff will be provided with a form email and a letter from the Clerk outlining Council's motion, which can be provided to potential proponents should they acknowledge their communication. In addition, the Clerk will provide an overview to Councilor's assistants.</p>	<p>Pros:</p> <ul style="list-style-type: none"> - Simple and requires minimal administrative resources. - Consistent approach by both Members of Council and Town staff. - Refers all communications to Procurement Department ensuring consistent communications on process matters. <p>Cons:</p> <ul style="list-style-type: none"> - Council motion would only apply to the Council and staff of the Town of Newmarket. - Restrict Members of Council in their representative role and access to information from potential proponents prior to the blackout period. - Potential proponents may require information from Members of Council about local issues to help inform their proposal responses. - No requirement for public disclosure of lobbying communications through a registry. - May not be practical in social settings. - Motion does not provide the Town with authority to investigate, recommend or impose penalties for non-compliance.
<p>Option C (Recommended) – Establish a lobbyist registry framework for the time period prior to the issuance of the request for proposals for the Northern Six Waste Collection Contract (2017-2027).</p>	<p>Provides for a lobbyist registry framework prior to the issuance of the request for proposals for the Northern Six Waste Collection contract (2017-2027), as outlined below.</p> <p><u>Lobbyists</u></p> <p>For the purposes of the registry, lobbyists include any director, officer, employee, agent or representative of a firm or agent of a firm (whether or not they receive payment) who have an interest in submitting a proposal for the Northern Six Waste Collection Contract (2017-2027). Among other examples, lobbyists include any director, officer, employee, agent or representative of a firm or agent of:</p> <ul style="list-style-type: none"> - A firm currently providing services identified in the RFP; - Firms partnering to submit a proposal; and, - Firms yet to form who wish to submit a proposal. <p>Lobbyists do not include representatives or agents of firms with a general economic or other interest in the Northern Six Waste Collection Contract (2017-2027) and have no interest in submitting a proposal. This mirrors the</p>	<p>Pros:</p> <ul style="list-style-type: none"> - Acknowledges lobbying by potential proponents is a natural and may be a helpful form of communication. - Does not restrict Members of Council in their representative role. - Provides for a clear definition of lobbying and lobbyist, differentiating lobbying communications from other forms of communication. - Potential proponents may require information from Members of Council about local issues prior to the release of the request for proposals. - Allows for public review of lobbying activities. - Because lobbying is defined and a disclosure process is provided for, Members of Council and Town staff are protected from circumstances where lobbying does not occur, avoiding public speculation. This may be particularly helpful at public events and gatherings where Members of Council, Town staff and potential proponents are in attendance. <p>Cons</p> <ul style="list-style-type: none"> - Framework would only apply to the Council and staff of the Town of Newmarket. - Requires administrative resources (Members of Council and Town staff). - Framework does not provide the Town with authority to investigate, recommend or

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Option	Description	Analysis
	<p>type of firms who would not be subject to the “black out” period required by the RFP.</p> <p><u>Lobbying</u></p> <p>Lobbying includes any communication between representatives or agents of lobbyists and a Member of Newmarket Council or Town employees, whether this occurs in person, by telephone, by e-mail, or other means electronic or otherwise where the subject of the communication is directly or indirectly related to the Northern Six Waste Collection Contract (2017-2027).</p> <p>Lobbying does not include communications from lobbyists where the communication is not acknowledged, acknowledged only or acknowledged and passed on to the Procurement Department. In addition, lobbying does not include Procurement staff (and staff in other departments involved in the procurement process) communication with lobbyists related to the Northern Six Waste Collection Contract (2017-2027).</p>	<p>impose penalties for non-compliance.</p>

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Option	Description	Analysis														
	<p>Examples:</p> <table border="1"> <thead> <tr> <th data-bbox="526 367 973 399">Scenario</th> <th data-bbox="973 367 1421 431">Considered lobbying & required to be registered</th> </tr> </thead> <tbody> <tr> <td data-bbox="526 431 973 553">Councillor or Councillor's assistant receives call, email or letter from potential proponent & does not respond.</td> <td data-bbox="973 431 1421 553">No</td> </tr> <tr> <td data-bbox="526 553 973 737">Councillor or Councillor's assistant receives call, email or letter from potential proponent & responds by acknowledging the communication and requesting they contact Procurement Department.</td> <td data-bbox="973 553 1421 737">No</td> </tr> <tr> <td data-bbox="526 737 973 920">Councillor receives call, email or letter from potential proponent & responds by outlining their concerns about garbage & waste collection in their view.</td> <td data-bbox="973 737 1421 920">Yes</td> </tr> <tr> <td data-bbox="526 920 973 1013">Councillor meets potential proponent in a social setting & discusses holiday plans.</td> <td data-bbox="973 920 1421 1013">No</td> </tr> <tr> <td data-bbox="526 1013 973 1138">Councillor meets potential proponent in a social setting & discusses waste collection in Newmarket.</td> <td data-bbox="973 1013 1421 1138">Yes</td> </tr> <tr> <td data-bbox="526 1138 973 1382">Staff member receives a letter at home from a potential proponent asking that they write their Councillor to support their company.</td> <td data-bbox="973 1138 1421 1382">Yes</td> </tr> </tbody> </table>	Scenario	Considered lobbying & required to be registered	Councillor or Councillor's assistant receives call, email or letter from potential proponent & does not respond.	No	Councillor or Councillor's assistant receives call, email or letter from potential proponent & responds by acknowledging the communication and requesting they contact Procurement Department.	No	Councillor receives call, email or letter from potential proponent & responds by outlining their concerns about garbage & waste collection in their view.	Yes	Councillor meets potential proponent in a social setting & discusses holiday plans.	No	Councillor meets potential proponent in a social setting & discusses waste collection in Newmarket.	Yes	Staff member receives a letter at home from a potential proponent asking that they write their Councillor to support their company.	Yes	
Scenario	Considered lobbying & required to be registered															
Councillor or Councillor's assistant receives call, email or letter from potential proponent & does not respond.	No															
Councillor or Councillor's assistant receives call, email or letter from potential proponent & responds by acknowledging the communication and requesting they contact Procurement Department.	No															
Councillor receives call, email or letter from potential proponent & responds by outlining their concerns about garbage & waste collection in their view.	Yes															
Councillor meets potential proponent in a social setting & discusses holiday plans.	No															
Councillor meets potential proponent in a social setting & discusses waste collection in Newmarket.	Yes															
Staff member receives a letter at home from a potential proponent asking that they write their Councillor to support their company.	Yes															

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Option	Description	Analysis		
	<table border="1" data-bbox="532 272 1427 459"> <tr> <td data-bbox="532 272 975 459">Councillor's assistant meets potential proponent in a social setting & asks that she or he book a meeting with the Councillor to discuss the waste collection in Newmarket.</td> <td data-bbox="975 272 1427 459">Yes</td> </tr> </table> <p data-bbox="532 492 921 524"><u>Administration of lobbyist registry</u></p> <p data-bbox="532 557 1427 914">In terms of the administration of the lobbyist registry, Members of Council and Town employees will be provided with a form which identifies the name of the Member of Council or Town employee, name and address of the lobbyist, date and time of the communication and how the communication occurred (i.e., by telephone, by e-mail, or other means electronic or otherwise) and a field where the Member of Council or Town employee can include a summary of the communication. An information sheet outlining the purpose, use and disclosure of information collected will be produced for Members of Council to provide to lobbyists. Given that lobbying occurs between firms (i.e., businesses) and Members of Council, there are no considerations relative to the collection, use and disclosure of personal information.</p> <p data-bbox="532 946 1427 1011">Information about the lobbyist registry will be communicated on the Town's website.</p> <p data-bbox="532 1044 1427 1190">Where lobbying has occurred, Members of Council and Town employees will be requested to submit their lobbying forms every week to Legislative Services and will be posted on the Town's website and made available at the Legislative Services Department shortly thereafter. If lobbying does not occur, no forms are required to be submitted.</p> <p data-bbox="532 1222 1427 1320">Lobbying forms and information sheets will be made available by December 16, following Council approval on December 14, 2015. Posting of the voluntary lobbyist registry will commence the week of January 4, 2016.</p>	Councillor's assistant meets potential proponent in a social setting & asks that she or he book a meeting with the Councillor to discuss the waste collection in Newmarket.	Yes	
Councillor's assistant meets potential proponent in a social setting & asks that she or he book a meeting with the Councillor to discuss the waste collection in Newmarket.	Yes			

Corporate Services Commission Report – Legislative Services Report 2015-21 – Appendix A

Option	Description	Analysis
<p>Option D – Establish a lobbyist registry and appoint a lobbyist registrar as provided for in the Municipal Act, 2001.</p>	<p>Lobbyist registry regime envisioned under Municipal Act, 2001 is broad in nature and applies to communications between municipal councillors and municipal staff generally and provides for the appointment of a lobbyist registrar responsible for administrative and enforcement responsibilities.</p>	<p>Given the short timeframe before the issuance of the RFP for the Northern Six Waste Collection Contract (2017-2027) in the spring of 2016 and existing priorities and resources, it would be impractical for Council to establish a broad lobbyist by-law and the potential appointment of a lobbyist registrar envisioned in the Municipal Act, 2001.</p>