



INFORMATION REPORT

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	February 17, 2016
SUBJECT/REPORT NO:	Business Improvement Areas - City Responsibilities (PED16046) (Wards 1, 2, 3, 4, 6, 7, 9, 12, 13 and 15) (Outstanding Business List Item)
WARD(S) AFFECTED:	Wards 1, 2, 3, 4, 6, 7, 9, 12, 13 and 15
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SIGNATURE:	

Council Direction:

At its meeting of October 14, 2015, Council approved Item 3(ii) of the General Issues Committee Report 15-018, which reads as follows:

“3. Business Improvement Area Advisory Committee Report 15-009, September 8, 2015 (Item 8.2)

(ii) Establishment of a Code of Conduct and Human Resources Policy for BIAS (Item 6.4)

That staff be directed to report to General Issues Committee by December 2, 2015 on the legal and administrative responsibilities of the City to BIAs in its jurisdiction as prescribed by the Municipal Act, 2001 and, that the report include an examination of the practices used by other municipalities.”

Information:

Business Improvement Areas (BIAs) are local boards of the City of Hamilton. As a result of this relationship, the City is responsible for carrying out a number of activities as required.

In recognition of the important role that BIAs play in the economic health of the municipality, the City of Hamilton has also taken on a number of discretionary responsibilities to supplement the good work that these organizations do.

There are a number of activities, related to the provision of standardized or template documents, that could be taken on by the City to further support the BIAs.

A. City's Mandatory Responsibilities

BIAs are established and maintained under sections 204 to 215 of the Municipal Act, 2001 (Municipal Act). In accordance with these sections the City is responsible for:

- 1. The processes to establish, expand or disband the BIA.** These processes involve determining support for and / or opposition to establishing, expanding or disbanding a BIA as prescribed under the *Municipal Act* and then acting accordingly by passing a by-law.
- 2. Final approval of the Board of Management Directors.** In Hamilton, this means Council directly appoints the Councillors whose respective Wards include the BIA and reviews and approves the appointment of those elected as directors by the BIA membership. The responsibility to provide final approval also includes the responsibilities, which are rarely exercised, to appoint a director (other than a Ward Councillor) directly without an election and to remove a director.
- 3. Approving a BIA's annual budget, collecting the tax levy set out in the approved budget from the BIA members and then remitting the levy to the Board of Management.** The City may also remit other sums to the Board of Management, such as shared parking revenue.
- 4. Auditing the BIA's year-end financial statement.** The City's Auditor audits the BIA's year-end financial statements.

B. City Discretionary Responsibilities

Under the *Municipal Act*, BIA Boards of Management are local boards which are independent from the City and responsible for the business of the BIA: holding elections for Directors (with the exceptions, as set out above), entering into and managing employment relationships with executive directors or other employees, deciding what activities the BIA will undertake and then ensuring they take place, developing and finalizing the budget all in consultation with the membership, as required.

The City's involvement in the business of a BIA, other than those responsibilities set out above that are mandated by statute, is limited. However, the City has developed and implemented a number of discretionary responsibilities over the years that support the important role BIAs play in the maintenance and enhancement of their respective

commercial areas without interfering with their independence; whether this is holding special events, marketing their businesses or making physical improvements to the public property adjacent to their businesses.

1. Business Improvement Area Advisory Committee

The Business Improvement Area Advisory Committee, a subcommittee of the General Issues Committee, meets on a monthly basis and provides a forum for all of Hamilton's BIAs to interact, become aware of City initiatives and provide input into these initiatives. It is administered by City staff in the Clerk's Department. Recent activities include awarding the BIA Excellence in Property Awards and developing a BIA application. A code of conduct is being developed for all BIAs to consider adopting and a consultant is being retained to carry out a branding exercise.

2. Urban Renewal Division, Planning and Economic Development Department

a) BIA Coordinator

A BIA Coordinator gives BIAs a single point of contact for their inquiries about City processes that affect BIAs. For example: how the mandatory annual financial statement audit responsibility is carried out; what grant programs benefit BIAs; and, how to access them, etc. The BIA Coordinator draws on City resources to provide responses to inquiries, including facilitating solutions where problems are identified. Recently, the BIA Coordinator has acted to provide:

- i) Two governance training sessions for the newly elected members of the various Boards of Management. These sessions, which were well-attended by representatives from the BIAs, were carried out by a third party consultant experienced in matters related to governance; and,
- ii) Advice to several Boards of Management regarding the holding of their Annual General Meetings.

The BIA Coordinator also plays a role in ensuring that BIAs meet their mandatory responsibilities, such as:

- i) Having current and adequate insurance; and,
- ii) Keeping minutes of Board of Management and General Meetings.

b) Financial Programs

- i) The Urban Renewal Section administers a number of financial programs that assist the BIAs. These programs include the Shared Parking Revenue

Program, the Contribution to BIA Operating Budgets Program and the BIA Christmas Grant Program; and,

- ii) A suite of financial incentive programs is also offered including the BIA Commercial Property Improvement Grant program which is offered exclusively to those property owners and businesses in a BIA.

3. Public Works Department

Through the Public Works Department, the City carries out a number of functions for BIAs including the planting and maintenance of decorative planters, enhanced road maintenance before special events, and weekly cigarette receptacle service (where installed).

The City of Hamilton Public Works Department is currently examining the service levels provided to each BIA. A report on this matter is expected later in 2016.

4. BIA By-law (By-law No. 14-253)

A Board of Management's responsibility for the business of the BIA includes having an appropriate procedure by-law. Council has passed a BIA By-law that, amongst other things, requires BIA Boards of Management to all adopt the same standardized, basic Procedure By-law.

C. Further Opportunities to Support BIAs

Beyond the mandatory and discretionary responsibilities listed above, there are a number of other discretionary responsibilities that the City of Hamilton will undertake when requested to do so to assist its BIAs:

1. Templates for Documents Related to Employment

Boards of Management are responsible for any employment relationships they decide to enter into. The City, however, can provide templates to a Board of Management for documents to be used in the course of employment relationships such as:

- a) Employee Contract
- b) Anti-Harassment and Anti-Discrimination Policies
- c) Nepotism Policy
- d) Employee Code of Conduct

The Board of Management would customize these templates to its needs and would have to seek its own advice, for example, when negotiating an employee contract.

2. Standardization of Documents

- a) Boards of Management are responsible for developing their budgets. The City can help the Boards develop a standard form. A standard form, used consistently, would ensure clarity for the Boards who prepare budgets and BIA members and Council who review them.
- b) Similar assistance can be provided for updated BIA hiring and procurement policies.

3. Training

Subject to the availability of funding, governance training sessions will continue to be carried out for Boards of Management when they begin their mandates.

D. Other Ontario Municipalities and Their Business Improvement Areas (BIAs)

1. Survey of Ontario Business Improvement Areas (BIAs)

Ontario municipalities of varying sizes were contacted to determine their relationship with their BIAs. The responses are summarized in Appendix “A” to this Report.

The involvement of the surveyed municipalities in the daily workings of their BIAs is quite limited. Like Hamilton, the municipalities, that is their equivalent of the City’s BIA Coordinator, act as a resource, providing guidance when requested. The City of Ottawa, in addition to this, does provide some “services” including receiving and paying BIA bills.

The limited involvement of the surveyed municipalities extends to human resources issues and breaches of the Municipal Act: generally, the municipalities’ equivalent of the City’s BIA Coordinator, after consulting with appropriate staff, would act to provide support to a BIA that is resolving a human resources issue or Municipal Act breach.

Finally, all of the municipalities indicated that they do not provide legal advice to their BIAs.

2. Memoranda of Understanding

Several Ontario municipalities have entered into Memoranda of Understanding (MOU) with some or all of the BIAs within their jurisdiction:

- a) Town of Bracebridge, District of Muskoka with Bracebridge BIA;
- b) City of Oshawa with Downtown Oshawa BIA and University of Ontario Institute of Technology (UOIT);
- c) Town of Tillsonburg with Tillsonburg BIA;
- d) Town of Port Perry, Scugog Township with Port Perry BIA;

- e) City of Pembroke with Pembroke BIA; and,
- f) Town of Oakville with Downtown Oakville BIA.

These MOUs establish each party's responsibility to the other for such things as snow clearing and banner installation. The content of the MOUs varies greatly from municipality to municipality. For example, the MOU between the Town of Bracebridge and the Bracebridge BIA deals specifically with snow removal; what standards are to be met by the municipality; and, how the cost is to be shared. Similarly, the MOU between the City of Oshawa and the Downtown BIA and UOIT deals with the decorative banners. The Tillsonburg and Oakville MOUs go further. The Tillsonburg MOU includes responsibility for benches, Christmas decorations, flower baskets, the removal of waste and recyclables and landscaping. The Oakville MOU includes responsibility for road maintenance as well as providing for municipal support for the BIA to meet its financial reporting obligations (provided at the expense of the BIAs).

Conclusion:

Based on the contents of this Report, it is apparent that the City of Hamilton provides a high level of service, beyond that required by the *Municipal Act, 2001*, to its BIAs. The BIA Coordinator position ensures that BIAs have ready access to information from the City of Hamilton. A number of financial programs are in place to help the BIAs directly while others exist to help spur on improvements to properties and buildings within their boundaries. There are potentially other areas where further services could be provided to the BIAs.

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" – Survey of Ontario Business Improvement Areas (BIAs)

CG/dkm