




CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Economic Development Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	August 4, 2022
SUBJECT/REPORT NO:	Barton Village Business Improvement Area Revised Board of Management (PED22174) (Wards 2 and 3)
WARD(S) AFFECTED:	Wards 2 and 3
PREPARED BY:	Carlo Gorni (905) 546-2424 Ext. 2755
SUBMITTED BY:	Norm Schleeahn Director, Economic Development Planning and Economic Development
SIGNATURE:	

RECOMMENDATION

That the following individuals be appointed to the Barton Village Business Improvement Area (BIA) Board of Management:

- (i) Tyler Cowie;
- (ii) Melissa McSweeney;
- (iii) Robert Iszkula;
- (iv) Jacob Tutt.

EXECUTIVE SUMMARY

Appointment of four new Directors to the Barton Village Business Improvement Area (BIA) Board of Management.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: Not applicable

Staffing: Not applicable

SUBJECT: Barton Village Business Improvement Area Revised Board of Management (PED22174) (Wards 2 and 3) - Page 2 of 4

Legal: *The Municipal Act 2001*, Sections 204-215 governs BIAs. Section (204) Subsection (3) stipulates “A Board of Management shall be composed of, (a) one or more Directors appointed directly by the Municipality; and (b) the remaining Directors selected by a vote of the membership of the improvement area and appointed by the Municipality.” Section 204 Subsection (12) stipulates “...if a vacancy occurs for any cause, the Municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area.”

HISTORICAL BACKGROUND

At its meeting on February 28, 2022, the Board of Management voted to expand the size of its membership from nine to eleven members. A notice of this proposed expansion was sent to all BIA members on March 4, 2022. As no objections were received within the 10-day appeal period as set out in the Procedural By-law adopted by the Board of Management (the BIA Procedural By-law), this change to the number of Board members is now effective.

At its meeting on April 25, 2022, the Board of Management of the Barton Village BIA appointed Melissa McSweeney, Robert Iszkula and Tyler Cowie to fill vacancies in Director positions. Should these appointments be adopted by Council, they would replace Sue Carr, Christine Furtado and Michal Cybin, respectively.

A written resolution dated, July 8, 2022, appointing Jacob Tutt to the Board of Management has been signed by all current members of the Board of the Management.

Should Council adopt the recommendation in PED22174, the nominated persons would be appointed to serve on the Barton Village BIA Board of Management for the remainder of this term, through the end of 2022.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Section 204 of the *Municipal Act* (the *Act*), together with the BIA Procedural By-law, govern the election of Directors, Appointment of Directors by Council, and the Filling of Vacancies within a Board of Management.

Section 204(3) *Act* provides, “A board of management shall be composed of:

- (a) one or more directors appointed directly by the municipality; and,
- (b) the remaining directors selected by a vote of the membership of the improvement area and appointed by the municipality.”

SUBJECT: Barton Village Business Improvement Area Revised Board of Management (PED22174) (Wards 2 and 3) - Page 3 of 4

Section 204(9) of the *Act* provides, “Subject to subsection (9), if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area.”

Article 4, Section 1 of the Procedural By-law provides, “All Directors of the Board of Management are appointed by City Council.

- (a) The Board of Management shall consist of nine Directors (which will provide for a minimum of 3 Directors and a maximum of 20 Directors), selected by a vote of the Members of the BIA and then appointed as Directors by City Council. In addition, the Board of Management shall consist of the Councillor(s) of the Ward(s) in which the BIA is located, directly appointed as Directors by the City.”

Article 4, Section 3 of the Procedural By-law provides, “Appointment to the Board In the event of a vacancy occurring on the Board of Management:

- (a) The remaining Directors may nominate for the City’s consideration and appointment an individual for Directorship to fill the vacancy for the remaining portion of the term of office;
- (b) In the event that the remaining Directors no longer constitute a quorum, a meeting of the Members shall be called by the remaining Directors for the purpose of nominating an individual for Directorship for consideration and appointment by the City; and,
- (c) The Board of Management shall notify the Co-ordinator of Business Improvement Areas, Economic Development Division, Planning and Economic Development Department, as soon as any vacancy occurs and shall further notify him or her if and when a nomination is made by the remaining Directors or the Members for appointment to the Board of Management by the City.”

Article 7, Section 1 of the Procedure By-law provides, “Board of Management Meetings:

- (h) A resolution in writing, signed by all the Directors entitled to voice on that resolution at a meeting of Directors or committee of Directors, is as valid as if it has been passed at a meeting of Directors or committee of Directors. A copy of every such resolution shall be kept with the minutes of the proceedings of the Directors or committee of Directors.”

Shortly put, pursuant to the *Act* and the Procedural By-law, Council is permitted to directly appoint the Councillor(s) of the Ward in which the BIA is located and appoint

SUBJECT: Barton Village Business Improvement Area Revised Board of Management (PED22174) (Wards 2 and 3) - Page 4 of 4

person(s) who have been selected by a vote of the BIA membership to fill a vacancy on the Board of Management. Where a vacancy occurs and the remaining Directors no longer constituting a quorum, the BIA membership is required to hold a meeting for the purpose of nominating an individual to fill the vacancy, for consideration and appointment by Council.

While the provisions of the City of Hamilton Policy respecting the Appointment of Citizens to the City's Agencies, Boards, Commissions, Advisory (Volunteer) Committees and Sub-Committees (the Policy) restrict the filling of vacancies within 12 months of the end of the Term of Council where there are insufficient applicants on file to fill the vacancy, the Policy has no application to the filling of vacancies on a Board of Management. As outlined above, this process is within the control and responsibility of the Board itself and is governed under the *Act* and the Procedure By-law. Therefore, the Policy does not restrict Council from making the appointments being recommended by this Report.

RELEVANT CONSULTATION

N/A

ANALYSIS AND RATIONALE FOR RECOMMENDATION

N/A

ALTERNATIVES FOR CONSIDERATION

N/A

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Economic Prosperity and Growth

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

APPENDICES AND SCHEDULES ATTACHED

N/A