



City of
Peterborough

To: Members of the Committee of the Whole

From: Allan Seabrooke, Chief Administrative Officer

Meeting Date: September 5, 2017

Subject: Report CAO17-008
Business Improvement Area By-laws

Purpose

A report to Council on a review of the by-laws regarding the operation of Business Improvement Areas in the City of Peterborough.

Recommendations

That Council approve the recommendations outlined in Report CAO17-008 dated September 5, 2017, of the Chief Administrative Officer, as follows:

- a) That By-laws 94-06, 1980-142, 1989-2 and Chapters 64 and 66 of the Peterborough Municipal Code be repealed; and
- b) That Council adopts By-law 17-095 attached as Appendix A, being a by-law to implement local policies to guide the operation and conduct of existing and new business improvement areas for the benefit of their members and the residents of Peterborough.

Budget and Financial Implications

There is no budget or financial implications to this report.

Background

Council at its meeting of October 3, 2016 passed the following resolution:

That Council approve the recommendations outlined in Report COU16-002 (attached as Appendix B) dated September 26, 2016, as follows:

- a) That staff provide a report with recommendations on updating bylaws and policies to govern the role of Business Improvement Areas as local boards of the municipality dedicated to the beautification and promotion of their respective business districts;
- b) That staff review all aspects, including the geographic territory, of the Downtown Business Improvement Area.
- c) That staff report back to City Council by the end of the first quarter of 2017.

In undertaking this report and drafting a new by-law, staff reviewed existing by-laws, other municipal by-laws and reviewed the DBIA's Procedure By-law, Harassment Policy and Human Rights Policy. The City's CAO has met with and discussed the contents of the draft by-law with Terry Guiel, Executive Director, DBIA and Jenn Rowles, Secretary-Treasurer for the Village BIA.

Business Improvement Areas

Legislative background

The **Municipal Act, 2001** ("Act") allows a municipal council to pass by-laws designating specific geographic areas as improvement areas with boards of management, which are considered a "local board", as defined under the Act. The Act also sets out membership, council approval of budget, how the funds are raised, changes to the geographic boundaries and repeal of by-laws. A by-law that designates a business improvement area must be sent to the OMB for approval.

Downtown Business Improvement Area (DBIA)

- a) Enacting by-laws

On December 15, 1980 the Central Business Improvement Area (CBIA) was created by By-law 1980-142 (Municipal Code Chapter 64). The CBIA has come to be known over the years as the PDBIA, Peterborough Downtown Business Improvement Area, and the DBIA, as it is known today.

By-law 1980-142 was amended by By-law 1982-93 on June 21, 1982 when the Board of Management was increased from 7 members to 11 and created a provision for a Senior

Vice-Chairman to be elected by the DBIA Board of Management. The revision also allowed for each member of the Board to be designated a director.

On January 17, 1994, By-law 94-06 amended to allow 13 members on the Board of Management.

Attached as Appendix C are the above mentioned by-laws.

b) Change in geographic boundaries

The DBIA runs just south of Dalhousie Street, north to Murray Street, west to Bethune Street and east to the Otonabee River (see Schedule A to By-law 17-095).

The DBIA has attempted to expand its boundaries in 1990, 1996, 2002 and 2006. The formal requests to expand its boundaries were provided to Council via respective planning reports.

The 1996 potential expansion was legally challenged by the physicians in the Medical Centre over their concern with the special levy. The Ontario Court of Appeal supported the City's argument that the correct interpretation of the **Municipal Act**, was that a petition to prevent the expansion of a BIA must be signed by at least 1/3 of the relevant persons within the entire improvement area, including the area proposed in the expansion. The OCA stated "The petition must be signed by at least one-third of the persons in the entire designated area, not simply one-third of the persons in the expanded area". (Kerr v. Peterborough (City), 1999 CanLII 2859 (ON CA)).

East City Ashburnham Village BIA

On January 3, 1989 the East City/Ashburnham Business Improvement Area was created by By-law -89-2 (Municipal Code Chapter 66 – attached as Appendix D). The ECABIA is commonly known as the Village BIA (VBIA). The VBIA runs from Rogers Street down Hunter Street, and stops to the North on Driscoll Terrace, and to the South on Burnham Street at the Burnham Place Apartments (see Schedule A to By-law 17-095).

Staff is not aware of the VBIA ever requesting a change in boundaries.

Summary of Draft By-law

Attached as Appendix A, is a copy of the draft by-law.

Recitals – set out the legal authority under the **Municipal Act, 2001** for Council to establish a BIA, its purpose, funding and budget.

Article 1 - Definitions – various terms have been defined providing greater clarification to the by-law as a whole.

Article 3 - Business Improvement Areas – the purpose of a BIA have been expanded and reflects the “Purpose” as set out in the DBIA’s current Procedure By-law.

Articles 4 - 7 – deal with the actual establishment or expansion of an existing BIA. The new by-law would permit both significant boundary expansions (Articles 4 and 6) and minor boundary expansions (Article 7) of both BIAs. An example of a minor boundary expansion would be when an owner of property within a BIA buys an abutting property which is outside of the BIA and those two properties merge in ownership. Council would not be involved in a minor boundary expansion.

An example of a significant boundary would be if a BIA has initiated the process set out in Article 4, which includes giving notice to Council of its desire to expand. A BIA may not expand without establishing a steering committee, which, with the assistance of City staff, will define the desired boundary of the expanded BIA, developing a rationale for the expansion and distribute information to area businesses and property owners. A significant expansion of a BIA also requires public consultation.

Article 6.8 of the By-law, states that Council shall not pass a by-law to significantly expand a BIA if the BIA has failed to receive 30% of the ballots it mailed out or if 50% or more of the responses it did receive did not support the expansion. This process is referred to as “polling” and the City Clerk shall, among other duties, record all accepted ballots and produce a certificate of the results. The General Manager shall then report to Council on the Clerk’s certificate.

Articles 8 and 40 continue the existence of and the boundaries of both the DBIA and the VBIA.

Articles 9 – 11 set out the process to repeal a BIA by-law.

Article 12 – 27 establish BIA’s and set out the process to appoint directors, qualification of membership in the BIA and procedural matters relating to meetings including its Annual General Meeting and how and when notice will be given.

Article 13.1 contains some limitations on the activities a BIA may undertake. For example, no money shall be spent unless it is included in a budget approved by Council. Without Council’s approval, a BIA may not incur any indebtedness beyond a current year. Neither shall a BIA lend or borrow money.

While a BIA can certainly appear before Council as a delegation, it cannot pass a resolution or take a position contrary to a Council-approved policy or decision, unless the conditions of Article 13.2 are met.

Article 13.2 sets out how the BIA can become a party or participant in a hearing before the Ontario Municipal Board or other administrative tribunal but only if it meets certain specific requirements, such as developing a budget for its participation and obtaining 66% support from BIA members for being a party or participant.

Article 14.1 states that a BIA director is appointed by Council and that Council retains the right to replace any appointed director at any time for any reason. The remainder of Article 14 sets out the composition and requirements for being a Director.

Articles 28 – 39 set out financial procedures and reports relating to a BIA's budget submission to City Council and how the funds are raised by Council.

Future amendments to the **Municipal Act, 2001** may necessitate further revisions to the By-law.

Schedules A and B

Schedule A is a graphic depicting the geographic boundaries of both BIA's. Schedule B is the BIA Board of Management Procedural By-law, as referenced in Article 24. Staff has not reviewed the geographic territory of the DBIA further to Council's direction of October 2016, as this will involve a comprehensive review in conjunction with the DBIA.

Summary

The new BIA by-law allows Council to continue to support the activities of its BIA's and for the DBIA and VBIA to continue to focus their efforts on the mandates outlined under the **Municipal Act, 2001** such as beautification and promotion. The by-law provides clear guidance on the creation, realignment and operation of BIA's within the City of Peterborough. The new BIA by-law will guide the operation and conduct of existing and new business improvement areas for the benefit of their members and the residents of Peterborough.

Submitted by,

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Chief Administrative Officer

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Attachments:
Appendix A - Draft By-law
Appendix B – Report COU16-002
Appendix C – By-law 1980-142 (Chapter 634), By-law 1982-93, By-law 94-06
Appendix D – By-law 89-2 (Chapter 66)



The Corporation of the City of Peterborough

By-Law Number 17-095

Being a By-law to implement local policies to guide the operation and conduct of existing and new business improvement areas for the benefit of their members and the residents of Peterborough

Recitals

- A. Section 10(2) of the **Municipal Act, 2001**, S.O. 2001, c. 25 as amended, (the “Act”) authorizes the Corporation of the City of Peterborough to pass By-laws respecting the governance structure of the municipality and its local boards.
- B. Section 204 of the Act provides that the Council of a local municipality may designate an area as a Business Improvement Area and may establish a Board of Management to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures, and to promote the area as a business or shopping area.
- C. Section 204(2) of the Act provides that a Board of Management is a corporation consisting of the number of directors established by the municipality.
- D. Section 204(2.1) of the Act provides that a Board of Management of a Business Improvement Area is a local board of the City of Peterborough for all purposes.
- E. Section 204(3) of the Act provides that a Board of Management shall be composed of one or more directors appointed directly by the municipality.
- F. Section 205(2) of the Act provides that the Council of a municipality may approve the budget of a Board of Management in whole or in part.
- G. This By-law continues and does not change the boundaries of either the Downtown Business Improvement Area or of the East City Ashburnham Village Business Improvement Area and it continues the existence and operation of each aforementioned Board of Management.

Now therefore, the Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

Article 1 – Definitions

- 1.1 **Act** – means the **Municipal Act, 2001**, S.O. 2001, c. 25 as amended.
- 1.2 **Annual General Meeting** or **AGM** – means a meeting for which notices are distributed to all BIA Members at which, among other matters: the Board presents a report on the program, accomplishment and forecasted revenues and expenses for the current year; the BIA Members consider the budget for the following year and the previous year's audited financial statements; and the membership elects members to the Board when required.
- 1.3 **Board of Management** or **Board** – means the Board of Management for a BIA.
- 1.4 **Business Improvement Area** or **BIA** – means an area designated as an Improvement Area by Council.

- 1.5 **Business Improvement Area Member or BIA Member** – means:
- i. all persons who own property in the BIA that is Business Property;
 - ii. non-residential tenants who are occupying the Business Property; and
 - iii. recent purchasers of property, including their non-residential tenants, in the DBIA or VBIA that is a Business Property, but not assessed on the last returned assessment roll and who produce evidence of property ownership or tenancy satisfactory the Director of Corporate Services.
- 1.6 **Business Property** – means property which is zoned commercial or industrial under the City of Peterborough’s Comprehensive Zoning By-law and located within a BIA.
- 1.7 **City** – means the Corporation of the City of Peterborough or the geographical boundary of the municipality, as the case may be.
- 1.8 **Clerk** – means the City Clerk or his or her designate or successor.
- 1.9 **Council** – means the Council of the Corporation of the City of Peterborough.
- 1.10 **Downtown Business Improvement Area or DBIA** – means the Board for the Central Area Downtown Business Improvement Area which draws its members from and operates in the designated area shown on Schedule A to this By-law as the Downtown BIA or as the context requires the geographic area.
- 1.11 **Director of Corporate Services** – means the person employed by the City holding that title or his or her designate.
- 1.12 **Director of Planning and Development** – means the City's Director of Planning and Development or his or her designate.
- 1.13 **East City Ashburnham Village BIA or VBIA** – means the Board for the East City Ashburnham Village BIA which draws its members from and operates in the designated area shown on Schedule A to this by-law as the East City Village BIA or as the context requires the geographic area.
- 1.14 **Holiday** – means any day that City Hall is closed or any other day designated by City Council as a holiday.
- 1.15 **Notice** – means a document prepared by the Clerk for circulation to relevant parties informing of certain intentions of Council.
- 1.16 **Procedural By-law** – means the procedural by-law, to be adopted by the each Board for the DBIA and for the East City Ashburnham Village BIA, which is attached as Schedule B hereto.

Article 2 – Application

- 2.1 This By-law sets out the procedures for the adoption by Council of a designating by-law and the establishment and operation of BIA Boards of Management.
- 2.2 This By-law applies to the Downtown Business Improvement Area and the East City Ashburnham Village BIA and to any future BIA Board which Council may establish.

Article 3 – Business Improvement Areas

- 3.1 Where Council passes a designating by-law, Council may establish one or more Boards:
- a. to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in each BIA beyond City standard levels provided at the expense of the municipality generally;
 - b. to maintain BIA -initiated street-scaping capital assets within each BIA;
 - c. to promote each BIA as a business, employment, tourist or shopping area;
 - d. to offer graffiti and poster-removal services respecting building facades visible from the street, to all BIA member property owners who provide written consent, upon approval of the program by the BIA members;
 - e. to undertake safety and security initiatives within each BIA;
 - f. to undertake strategic planning necessary to address BIA issues; and
 - g. to advocate to City Council on behalf of the interests of the BIA subject to the limits set out in this By-law.

Article 4 – Establishing, Expanding and Continuing a Business Improvement Area

- 4.1 The boundaries of both the DBIA and VBIA as they existed on the day before the passage of this by-law are hereby continued.
- 4.2 The following process shall be undertaken in all areas considering the establishment of a new BIA or an expansion of an existing BIA, if the expansion is not considered minor under Article 7, before the processing of a notice of the intention of Council to pass a By-law designating or expanding a BIA.
- 4.3 Local business and property owners shall form a steering committee to undertake the following with the assistance of City staff:
- a. Define the desired boundary of the proposed BIA or the boundary extension of a proposed BIA expansion;
 - b. Develop a rationale for the proposed BIA or boundary expansion, including potential benefits for the area and objectives for future improvements;
 - c. Develop and implement a strategy to:
 - i. Communicate its interest in establishing a new BIA, or expand an existing BIA, to area business and property owners;
 - ii. Distribute information on BIAs to area business and property owners;
 - iii. Canvas area business and property owners to determine the initial degree of local interest;
 - iv. Report to the Director of Planning and Development on the number of written and verbal responses received from area business and property owners and summarize the initial degree of local interest; and
 - v. Decide on whether to request the Director of Planning and Development to proceed to a formal public consultation meeting.

- 4.4 Upon the completion of Articles 4.3(a) and 4.3(b), the Director of Planning and Development shall establish a webpage on the City's website to provide information on the proposed new BIA or BIA expansion, and the address of the webpage shall be communicated through meeting notifications noted in Articles 5 and 6.
- 4.5 If the steering committee decides to request the Director of Planning and Development to proceed to a formal public consultation meeting under Article 4.3(c)(v), the steering committee shall submit a letter to the Director of Planning and Development, signed by at least two steering committee members, making such a request and confirming that the steering committee has complied with Article 4.3.
- 4.6 Upon receiving a request to proceed to the formal public consultation meeting from the steering committee, and provided the Director of Planning and Development is satisfied with the findings of the report submitted under Article 4.3(c)(iv), the Director of Planning and Development shall send notification of a formal public consultation meeting to commercial and industrial rateable property owners a minimum of ten business days in advance of the meeting, and the steering committee shall distribute notification to all commercial and industrial tenants a minimum of ten business days in advance of the meeting.
- 4.7 Except as provided for in Article 4.9, after holding a formal public consultation meeting and determining interest in proceeding to the notification process for the establishment of a new BIA or the expansion of an existing BIA, the Director of Planning and Development shall recommend that Council enact a by-law to establish a new BIA or expand an existing BIA.
- 4.8 For the purposes of Article 4.7, interest in proceeding with the notification process shall be determined by a secret ballot at the formal public consultation meeting whereby 50 percent plus one of those potential BIA members in attendance must agree to proceeding with the notification process.
- 4.9 If the potential BIA members decide not to proceed with the notification process set out in Article 4.8, another formal public consultation meeting relating to any part of the same area shall not be held for at least one year from the date of the formal public consultation meeting at which the decision was made.
- 4.10 Where there are competing interests involving proposed new BIAs or the expansion of a BIA, the Director of Planning and Development shall hold a formal public consultation meeting to consider all options and report to Council with recommendations.

Article 5 – Notice and Polling – New Business Improvement Areas

- 5.1 Before passing a by-law to establish a new BIA, notice of the proposed by-law shall be sent by prepaid mail to every person who is listed as owner and is assessed for rateable property that is in a prescribed business property class that is located in the proposed BIA using the following documents:
 - a. Current returned assessment roll; and
 - b. Any other related geographic information system (GIS) developed using information from Municipal Property Assessment Corporation (MPAC) and City records.
- 5.2 A person who receives notice under Article 5.1 shall, within 30 days of the date the notice was mailed, give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property.

- 5.3 The steering committee shall also distribute the notice to commercial and industrial tenants of those properties receiving notice under Article 5.1.
- 5.4 The notice provided under Article 5.1 will include instructions on how to obtain a copy of the ballot.
- 5.5 A printable version of the ballot may be posted on the City's website and will also be available by contacting the Clerk.
- 5.6 Proof of tenancy must be submitted with the completed ballot and acceptable forms of proof will be identified by the Clerk on the ballot and website.
- 5.7 A person receiving notice under Articles 5.1, 5.2 or 5.3 shall be entitled to complete and submit one ballot regardless of the number of properties or businesses owned by that person within the proposed BIA.
- 5.8 Council shall not pass a by-law to establish a new BIA if:
 - a. written objections are received by the Clerk within 60 days after the last day of mailing of the notices;
 - b. the objections have been signed by at least one-third of the total number of persons entitled to notice under Article 5.1;
 - c. the objectors are responsible for at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all prescribed business classes in the proposed BIA.
- 5.9 The polling period shall be 60 days, commencing upon the day the notices under Article 5.1 are mailed.
- 5.10 Where the 60th day of a polling period falls upon a Holiday, a Saturday or Sunday, the polling period shall end on the next regular business day when City Hall is open.
- 5.11 The Director of Planning and Development shall provide the Clerk with the question that is required on the ballot.
- 5.12 The ballot shall indicate the following:
 - a. Polling period notice;
 - b. Criteria for accepting ballots;
 - c. Voter eligibility; and
 - d. Ballot confidentiality.
- 5.13 Ballots will be accepted only if they are:
 - a. Received from owners of properties on lists provided for in Article 5.1; or
 - b. Accompanied by proof of ownership if property ownership has recently changed; or
 - c. Received from non-residential tenants within the identified polling area with acceptable proof of tenancy; and
 - d. Received by the Clerk by mail, courier, or hand delivery by 4:30 p.m. on the last day of the polling period.

5.14 At the end of the polling period, the Clerk shall:

- a. Record all accepted ballots;
- b. Certify, in writing, the results of the poll;
- c. Provide Council with a copy of the results as soon as they are available;
- d. Write a letter to the Director of Planning and Development and Board indicating the results of the poll; and
- e. Post the results of the poll on the City's web site within 15 business days from the end of the polling period.

5.15 The Director of Planning and Development shall report to Council on the certificate issued by the Clerk.

Article 6 – Notice and Polling – Expanding a Business Improvement Area

6.1 Before passing a by-law to expand a BIA:

- a. The Director of Planning and Development must receive a resolution supporting the proposed expansion, adopted by a majority vote of the BIA Members in attendance at a general meeting or an AGM, and the notification for the meeting must be satisfactory to the Director of Planning and Development; and
- b. Notice of the proposed by-law shall be sent by prepaid mail to the Board and to every person who on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class that is located in the proposed BIA using the following documents:
 - i. Current returned assessment roll; and
 - ii. any other related geographical information system (GIS) developed using information from Municipal Property Assessment Corporation (MPAC) and City records.

6.2 A person who receives notice under Article 6.1(b) shall, within 30 days of the date the notice was mailed, give a copy of the notice to each tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property.

6.3 The steering committee shall also distribute the notice to commercial and industrial tenants of those properties receiving notice under Article 6.1(b).

6.4 The notice provided under Article 6.1(b) will include instructions on how to obtain a copy of the ballot.

6.5 A printable version of the ballot may be posted on the City's website and will also be available by contacting the Clerk.

6.6 Proof of tenancy must be submitted with the completed ballot and acceptable forms of proof will be identified by the Clerk on the ballot and website.

6.7 A person receiving notice under Articles 6.1(b), 6.2 or 6.3 shall be entitled to complete and submit one ballot regardless of the number of properties or businesses owned by that person within the proposed BIA.

- 6.8 Council shall not pass a by-law to expand a new BIA if:
- a. written objections are received by the Clerk within 60 days after the last day of mailing of the notices;
 - b. the objections have been signed by at least one-third of the total number of persons entitled to notice under Article 6.1(b); and
 - c. the objectors are responsible for:
 - i. at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all prescribed business classes in the BIA; or
 - ii. at least one-third of the taxes levied for purposes of the general local municipal levy on rateable property in all prescribed business classes in the geographic area the proposed by-law would add to the existing BIA;
- 6.9 The polling period shall be 60 days, commencing upon the day the notices under Article 6.1(b) are mailed.
- 6.10 Where the 60th day of a polling period falls upon a Holiday, a Saturday or Sunday, the polling period shall end on the next regular business day when City Hall is open.
- 6.11 The Director of Planning and Development shall provide the Clerk with the question that is required on the ballot.
- 6.12 The ballot shall indicate the following:
- a. Polling period notice;
 - b. Criteria for accepting ballots;
 - c. Voter eligibility; and
 - d. Ballot confidentiality.
- 6.13 Ballots will be accepted only if they are:
- a. Received from owners of properties on lists provided for in Article 6.1(b); or
 - b. Accompanied by proof of ownership if property ownership has recently changed; or
 - c. Received from non-residential tenants within the identified polling area with acceptable proof of tenancy; and
 - d. Received by the Clerk by mail, courier or hand delivery by 4:30 p.m. on the last day of the polling period.
- 6.14 At the end of the polling period, the Clerk shall:
- a. Record all accepted ballots;
 - b. Certify, in writing, the results of the poll;
 - c. Provide Council with a copy of the results as soon as they are available;
 - d. Write a letter to the Director of Planning and Development and the Board indicating the results of the poll; and

- e. Post the results of the poll on the City's web site within 15 business days from the end of the polling period.
- 6.15 The Director of Planning and Development shall report to Council on the certificate issued by the Clerk.

Article 7 – Minor Boundary Expansions

- 7.1 Despite Article 6, the City is not required to give notice of a by-law to make minor boundary expansions that represent an increase of total commercial and industrial property assessment value of less than ten percent of the existing assessment value of properties within the existing BIA boundary.
- 7.2 Before passing a by-law under Article 7.1, Council must receive a written request for a boundary expansion from the BIA Board, and written consent from all non-residential property owners and non-residential tenants within the expansion area described in Article 7.1.
- 7.3 Despite Article 6, the City is not required to give notice of minor boundary alterations that involve properties that have been included or excluded from a BIA as a result of error, or for minor boundary alterations that involve a merging of formerly separate properties or subdivision of single properties that result in a portion of the lands being included in a BIA and a portion excluded.
- 7.4 In the event a portion of a property is included in a BIA and a portion excluded as set out in Article 7.3, the BIA boundary shall be expanded to include the entire property.

Article 8 – Boards Continued

- 8.1 The Boards for each of the DBIA and VBIA are hereby continued subject to the requirements of this by-law.
- 8.2 Council may alter the boundaries of a BIA and the Board for that BIA is continued as the Board for the altered area.

Article 9 – Repeal of Business Improvement Area By-law

- 9.1 The City shall give notice of a proposed by-law to repeal a designating by-law under Articles 5, 6 or 7 if the Clerk has received:
- a. A resolution from the BIA membership adopted at a formal public consultation meeting called specifically for that purpose; or
 - b. Individual requests for repeal from BIA members, including proof of membership, representing a minimum of one-third of the taxes levied for purposes of the general local municipality levy on rateable property in all prescribed business property classes in the BIA;
- 9.2 Notice of the proposed by-law shall be sent by prepaid mail to the Board and to every person who on the last returned assessment roll, is assessed for rateable property that is in a prescribed business property class that is located in the proposed BIA using the following documents:
- a. Current returned assessment roll; and
 - b. any other related geographical information system (GIS) developed using information from Municipal Property Assessment Corporation (MPAC) and City records.

- 9.3 A person who receives notice under Article 9.2 shall, within 30 days of the date the notice was mailed, give a copy of the notice to each non-residential tenant of the property to which the notice relates who is required to pay all or part of the taxes on the property.
- 9.4 The Board shall also distribute the notice to non-residential tenants.
- 9.5 The notice provided under Article 9.2 will include instructions on how to obtain a copy of the ballot.
- 9.6 A printable version of the ballot may be posted on the City's website and will also be available by contacting the Clerk.
- 9.7 Proof of non-residential tenancy must be submitted with the completed ballot and acceptable forms of proof will be identified by the Clerk on the ballot and website.
- 9.8 A person receiving notice under Articles 9.2, 9.3 or 9.4 shall be entitled to complete and submit one ballot regardless of the number of properties or businesses owned by that person within the proposed BIA.
- 9.9 Council shall repeal a designating by-law if requests for the repeal are received by the Clerk within 60 days after the last day of mailing the notices referred to under Article 9.1, and
- a. the requests have been signed by at least one-half of the total number of persons entitled to notice under Article 9.2; and
 - b. the persons referred to Article 9.2(a) are responsible for at least 50% of the taxes levied for purposes of the general local municipal levy on rateable property in all prescribed business classes in the BIA.
- 9.10 The polling period shall be 60 days, commencing upon the day the notices under Article 9.2 are mailed.
- 9.11 Where the 60th day of a polling period falls upon a Holiday, a Saturday or Sunday, the polling period shall end on the next regular business day when City Hall is open.
- 9.12 The Director of Planning and Development shall provide the Clerk with the question that is required on the ballot.
- 9.13 The ballot shall indicate the following:
- a. Polling period notice;
 - b. Criteria for accepting ballots;
 - c. Voter eligibility; and
 - d. Ballot confidentiality.
- 9.14 Ballots will be accepted only if they are:
- a. Received from owners of properties on lists provided for in Article 9.2; or
 - b. Accompanied by proof of ownership if property ownership has recently changed; or
 - c. Received from non-residential tenants within the identified polling area with acceptable proof of tenancy; and

- d. Received by the Clerk by mail, courier or hand delivery by 4:30 p.m. on the last day of the polling period.

9.15 At the end of the polling period, the Clerk shall:

- a. Record all accepted ballots;
- b. Certify, in writing, the results of the poll;
- c. Provide Council with a copy of the results as soon as they are available;
- d. Write a letter to the Director of Planning and Development and the Board indicating the results of the poll; and
- e. Post the results of the poll on the City's web site within 15 business days from the end of the polling period.

9.16. The Director of Planning and Development shall report to Council on the certificate issued by the Clerk.

Article 10 – Council Repeal

10.1 Council may repeal a designating by-law on its own initiative without giving notice to a Board or to BIA members.

10.2 The repealing by-law must come into force on or before December 31 of the year in which it is passed.

Article 11 – Re-Notification

11.1 Where notification has been provided under Articles 5, 6 or 9, and insufficient ballots are returned or the ballot response is negative or equal, as set out in Article 5.8, 6.8 and 9.9, so that a by-law cannot be passed by Council, the City is not required to give notice under Articles 5, 6, or 9 in response to a resolution or request for a period of two years after the last mailing of the notices.

Article 12 – Board of Management Established

12.1 A Board shall be established for each BIA designated by a by-law, and the name of each Board shall be "Board of Management for the (inserting the name set out opposite the by-law) business improvement area".

12.2 A Board is a City Board and is an agent of the City for the purposes set out in this chapter.

Article 13 – Limitations

13.1 A Board shall not:

- a. Spend any money unless it is included in the budget approved by Council or in a reserve fund, but the Board may spend unexpected revenues received subsequent to the approval of the annual budget by Council if the Board reports on these revenue and expenditure variances at the AGM and through the audited financial statement;
- b. Incur any indebtedness extending beyond the current year without the prior approval of Council;
- c. Borrow or lend money;
- d. Offer or provide support to political candidates or political parties;

- e. Advertise or pay for advertisements in any political publication;
 - f. Make or fund improvements to private property, with the exception of graffiti and poster-removal initiatives under Article 3.1(d);
 - g. Participate in a hearing before the Committee of Adjustment, or other similar committee, unless the Board has conducted a general meeting of the membership to obtain approval to participate in a specific hearing, and to get approval of any related expenditures;
 - h. Pass a resolution or take a position contrary to any Council-approved policy or decision except if the requirements of Article 13.2 are met; or
 - i. Hold a Board meeting, AGM or general meeting on a Holiday.
- 13.2 A Board shall not seek to make itself or its BIA a party or a participant in a hearing before the Ontario Municipal Board or other administrative tribunal without first:
- a. sending notice of its intent to hold a general meeting concerning being a party or participant before the Ontario Municipal Board or other administrative tribunal, such notice to include a budget for participation in the hearing;
 - b. conducting a general meeting of BIA members;
 - c. presenting the budget referred to in Article 13.2(a) to the BIA members at the said general meeting; and
 - d. obtaining support to participate in the hearing from two-thirds of the BIA members including two-thirds support for the budget referred to in Article 13.2(a).
- 13.3 The vote held to determine whether two-thirds of BIA members have voted to participate in the hearing and support the budget under Article 13.2(d), shall be a recorded vote listing the name of each BIA member and the address of the Business Property. The recorded vote is subject to verification by the Clerk.

Article 14 – Appointment of Directors

- 14.1 Directors are appointed by Council and Council retains the right to replace any appointed director at any time for any reason. The minimum number of directors shall be 7 and the maximum of 9.
- 14.2 A Board shall be composed of:
- a. One or more directors appointed directly by Council; and
 - b. The remaining directors must be BIA Members, selected by a vote of the membership of the BIA and appointed by Council.
- 14.3 Directors are not required to be residents of the City of Peterborough.
- 14.4 If, during the term of office, the status of a director changes so that he or she is no longer a BIA member, the Board shall adopt a motion at the next scheduled meeting requesting Council to remove the director from the Board.
- 14.5 Each Board shall consist of the number of directors as set out opposite the name of its BIA in Schedule A at the end of this By-law.
- 14.6 The term of the directors of a Board is the same as the term of the Council in office at the time of his/her appointment.

- 14.7 Each director shall hold office from the time of his/her appointment until a successor is appointed, as long as the director continues to be qualified.
- 14.8 Each director is eligible for reappointment on the expiration of the term of his/her office. Commencing in January 2019 no director shall serve more than 2 consecutive terms.
- 14.9 Each director and the Board shall operate in compliance with all applicable law including, but not limited to:
- a. the Act;
 - b. **Municipal Freedom of Information and Protection of Privacy Act;**
 - c. **Municipal Conflict of Interest Act;** and
 - d. other applicable City policies.
- 14.10 Every Board member of the BIA shall:
- a. Exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the BIA area; and
 - b. Exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances.
- 14.11 A Board has the authority to establish task, issue or function-related sub-committees of the Board and the sub-committees may include non-members of the BIA provided the sub-committee is chaired by a Board member.

Article 15 – Refusal to Appoint

- 15.1 Council may refuse to appoint a person selected by the members of a BIA to a Board in which case Council may leave the position vacant, appoint another person or direct that a meeting of the members of the BIA or the Board be held to elect or select another candidate for Council's consideration.

Article 16 – Elections of Nominees; Voter Eligibility

- 16.1 Nominees for appointment to a Board for each existing BIA are to be elected at AGMs of the BIA membership held in Council election years.
- 16.2 The members of a newly formed BIA shall nominate Board Members at their AGMs following the adoption by Council of the BIA designating by-law.
- 16.3 All nominees shall complete and submit an application for Board nomination, provided by the Director of Planning and Development, prior to the vote by the membership required by Article 14.2(b).
- 16.4 Each BIA Member is entitled to a single vote per question or motion at BIA AGMs and general meetings, regardless of the number of properties or businesses that the member may own or lease in the BIA.
- 16.5 Notwithstanding Article 14.2(b), a member of a BIA may appoint in writing one representative to stand for nomination to the Board on behalf of the member, regardless of the number of properties or businesses that the member owns.
- 16.6 Ownership of properties.
- a. Where a person is the sole owner of more than one property within the BIA, or is the sole owner of more than one corporation that owns property within the BIA, the person and the corporations solely owned by that

person shall have a total of only one vote, regardless of the number of properties owned by that person and the different corporations solely owned by that person.

- b. Where a person is the sole owner of a property and joint owner of one or more additional properties within the BIA, one vote is given for the property owned by that person alone and one vote is given for each jointly owned property, provided the co-owners in each case are different persons and they or their representatives attend the meeting where the vote is held.
 - c. Where a person is the sole owner of a corporation and part owner of different corporations that own property within the BIA, one vote is given for the corporation solely owned by that person and one for each jointly owned corporation, provided the co-owners of each corporation are different persons and they or their representatives attend the meeting where the vote is held.
- 16.7 A BIA Member may, through the completion of a designate form provided by the Director of Planning and Development, nominate in writing a designate to vote on behalf of the member at a general meeting or AGM, provided the designate nominated has not also been nominated by another member of the BIA.
- 16.8 The person nominated under Article 16.7 must not be a member of the BIA.
- 16.9 Designate forms required under Article 16.7 must be submitted to the Director of Planning and Development at least five business days in advance of the AGM or general meeting and the submission deadline must be identified in the notice of that meeting and must be accompanied by proof of property or business ownership within the BIA.
- 16.10 The Director of Planning and Development shall forward the completed designate forms to each Board Officer a minimum of three business days prior to the date of the general meeting or AGM.

Article 17 – Officers

- 17.1 Each Board shall elect a Chair and Vice-Chair, Secretary and Treasurer and such other officers from its Board members as the Board may deem necessary to properly conduct the business of the Board, as soon as possible after its members are appointed.

Article 18 – Board Vacancies; Replacements; Additions

- 18.1 If a Board vacancy occurs for any cause, a person shall be selected by the Board to fill the vacancy for the unexpired portion of the term and shall be brought forward to Council for approval.
- 18.2 If a Board resolves to seek the removal of a member from the Board or the appointment of a replacement or additional member to the Board, it shall give to the Clerk signed minutes of the meeting at which the vote was held on this matter, and the Clerk shall report to Council.
- 18.3 During the term of the Board, a resolution requesting Council to approve an increase in the size of a Board can be adopted by the BIA membership at an AGM or general meeting, provided the proposed increase is listed in the meeting notice as an agenda item.

Article 19 – Meetings; Records

- 19.1 A Board shall hold at least four meetings each year, including the AGM, to which all members of the BIA shall be invited.
- 19.2 A Board shall keep proper minutes and records of every meeting of the Board and shall forward signed copies of the minutes and records to all members of the Board and to the Clerk.

Article 20 – Quorum – Board of Management

- 20.1 A majority of the members of a Board constitutes a quorum of the Board.
- 20.2 No business shall be transacted at a Board meeting unless quorum is present.

Article 21 – Annual General Meeting; Notice

- 21.1 Notice of the AGM must include the meeting agenda, Council-approved and estimated expenditures for the current year, and proposed revenues and expenditures for the following year.
- 21.2 A copy of the designate form provided for in Article 16.7 must be attached to the AGM notice.
- 21.3 A Board shall supply the Director of Planning and Development with the notice of the AGM and any accompanying materials at least 20 business days before the date of the AGM.
- 21.4 The City shall send the notice of the AGM by prepaid mail at least 15 business days before the date of the meeting to BIA property owner members.
- 21.5 A Board shall distribute notices of the AGM to BIA tenant members and Council members sitting on the Board at least 15 business days before the date of the meeting.
- 21.6 A Board's complete audited financial statements, with balance sheet and revenue and expenditure statements, must be available at the AGM.
- 21.7 BIA members at the AGM shall appoint the City's auditor to prepare the audited financial statement for the following year.

Article 22 – Quorum – Annual General Meetings and General Meetings

- 22.1 No business shall be transacted at an AGM or general meeting unless a quorum of the Board is present as set out in Article 20.1.

Article 23 – Councillors Attending Annual General Meetings

- 23.1 No Councillor shall vote at AGM or general meeting, unless s/he is BIA Member as defined in Article 1.

Article 24 – Procedure By-law

- 24.1 A Board shall, within six months of the passage of this By-law, adopt the procedures set out in Schedule B attached hereto.
- 24.2 A Board may make policies in addition to those in Schedule B provided they are not in conflict with and do not undermine the intent of Schedule B.

- 24.3 A Board shall, within six months of the passage of this By-law, adopt policies consistent with legislation and/or City By-laws/Policies pertaining to the procurement of goods and services and the hiring of employees, as required under the Act and a policy concerning:
- a. restrictions on the use of Board resources and staff during election campaigns; and
 - b. participation by Board members and BIA staff in election campaigns.
- 24.4 A Board for a new BIA shall comply with the provisions of Articles 24.1, 24.2 and 24.3 within six months of its appointment by Council.

Article 25 – Insurance

- 25.1 The City shall not provide any insurance coverage to a BIA or to a Board.

Article 26 – Dissolution of Board

- 26.1 Upon the repeal of a designating by-law, the Board is dissolved and the assets and liabilities of the Board become the assets and liabilities of the City.

Article 27 – Liabilities Upon Dissolution

- 27.1 If a Board is dissolved and the liabilities exceed the assets assumed by the City, Council shall recover the difference by imposing a charge on each Business Property in the former BIA.

Article 28 – Annual Budget

- 28.1 A Board, or in the case of a newly-established BIA, a steering committee, shall prepare a proposed annual budget for each fiscal year by the date and in the form required by the City's Director of Corporate Services, and shall hold an AGM or general meeting to discuss and adopt the annual budget.
- 28.2 A Board, or in the case of a newly-established BIA, a steering committee, shall submit the annual budget to the City's Director of Corporate Services by the date and in the form required by the City's Director of Corporate Services, and Council may approve it in whole or in part..
- 28.3 In the case of a newly-established BIA, Council shall accept for consideration an annual budget adopted at an AGM at which the first Board of the BIA has also been selected through a vote of the membership and submitted for consideration by Council.

Article 29 – Financial Procedures and Reports

- 29.1 A BIA shall, as directed by its Board, adopt and maintain banking arrangements and sound business practices.
- 29.2 The Treasurer of a Board shall prepare and present written financial statements of expenses, revenues and bank balances for the Board's review and consideration at each regular meeting and then submit the Board-approved statements to the City's Director of Corporate Services.
- 29.3 Cheques issued by the Board shall be signed by two Board members.
- 29.4 A Board's fiscal year is the calendar year.
- 29.5 After Council's approval of a BIA's budget, the City's Director of Corporate Services shall, upon receipt of an invoice from a BIA, remit 25 percent of the BIA's special

charge in each quarter, but shall withhold an amount for insurance recovery costs and a provisional amount reserved for assessment and tax appeals, and any loan repayment amounts approved by Council, from all amounts remitted.

Article 30 – Audited Financial Statements

- 30.1 A Board shall submit its audited financial statements for the preceding year for Council's approval by the date and in the form required by the City's Director of Corporate Services.
- 30.2 Where the auditor for the BIA has identified audit or financial reporting related issues through the preparation of a management letter, the Board shall submit a letter to the Director of Corporate Services indicating how and when the Board intends to address the issues identified in the management letter.
- 30.3 If a Board fails to comply with the requirements contained in Articles 30.1 and 30.2 B, the City's Director of Corporate Services shall withhold payment of the BIA's special charge until the Board complies.

Article 31 – Funds to be Raised

- 31.1 Council shall annually raise the amount required for the purposes of a Board, including any interest payable by the City on money borrowed by it for the purposes of the Board.
- 31.2 Before Council raises the funds for the following year in accordance with Article 31.1, the Board shall:
- a. Submit all meeting minutes and financial statements in accordance with Article 19.2 and Article 29.2; and
 - b. Provide evidence to the Director of Planning and Development that it has complied with Articles 24.1, 24.2 and 24.3.

Article 32 – Special Charge

- 32.1 Council may raise the amount referred to in Article 31.1:
- a. By imposing a special charge upon rateable property in the BIA that is in a business property class; or
 - b. By imposing a special charge upon each Business Property in the BIA that is in a business property class and that, in Council's opinion, derives special benefit from the BIA, which special charge may be calculated using different percentages of the assessment for one or more separately assessed properties or categories of separately assessed properties in the class if the resulting special charge is equitable in accordance with the benefits that, in Council's opinion, accrue to the properties from the activities related to the BIA.

Article 33 – Priority Lien Status

- 33.1 Charges levied under this By-law have priority lien status under the Act and shall be added to the tax roll.

Article 34 – Amendments to Peterborough Municipal Code – Repeal of By-laws

34.1 Effective upon this by-law receiving third reading, the following are hereby repealed in their entirety:

- a. Chapters 64 and 66 of the Peterborough Municipal Code;
- b. By-laws 94-06, 1980-142, 1982-93 and 1989-2.

Article 35 – Continuation of Boards of Management and BIAs

35.1 This by-law continues and does not change the boundaries of either the Downtown Business Improvement Area or of the East City Ashburnham Village Business Improvement Area and continues the existence and operation of each aforementioned Board of Management, subject to the requirements of this by-law.

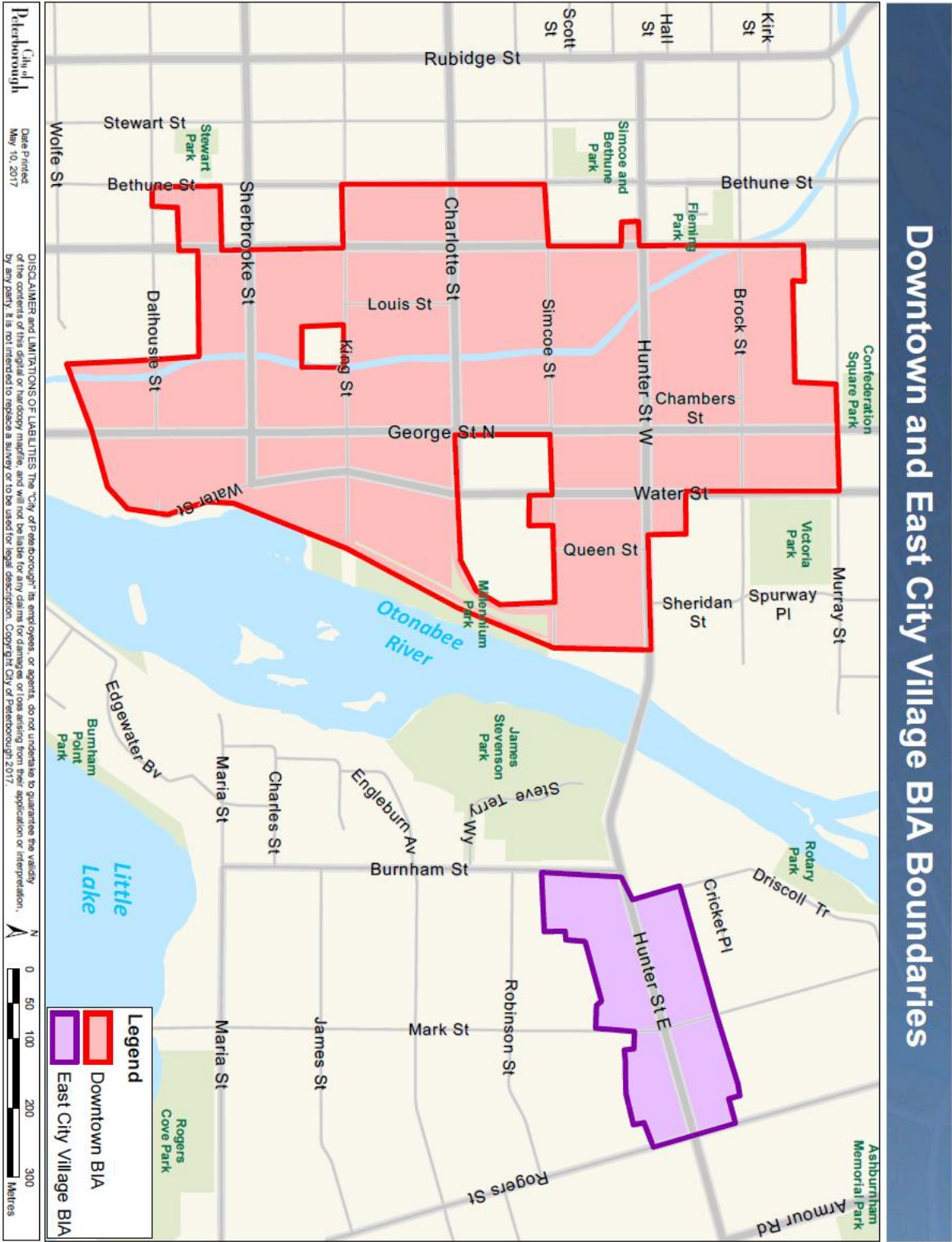
By-law read a first, second and third time this ____ day of _____, 2017.

Daryl Bennett, Mayor

John Kennedy, City Clerk

Schedule A
Individual Boards of Management and Map of BIAs

BIA	Designation By-law	Number of Members	Number of Councillors	Ward in Which BIA is Located	Members Required for Quorum
Downtown BIA	Chapter 64 of the Peterborough Municipal Code, Section 64.1.1	7-9	1	Town	50% + 1
East City Ashburnham Village BIA	Chapter 66 of the Peterborough Municipal Code, Section 66.1.1	7-9	1	Ashburnham	50% +1



Schedule B

BIA Board of Management Procedures

1.0 Rules of Procedure

- 1.1 The rules in this By-law are to be observed in all meetings of the general membership, the Board of Management (the "Board") and committees of the Board.
- 1.2 The rules of procedure are to be interpreted in a manner that promotes the following fundamental principles:
- a. the protection of basic rights by recognizing the right of the majority to decide, the minority to be heard, and individuals to have the opportunity to participate;
 - b. the maintenance of decorum, with all participants being treated with courtesy and respect;
 - c. all members have the right to information to help make decisions;
 - d. members have a right to an efficient meeting;
 - e. all members have equal rights, privileges and obligations; and
 - f. in the event of conflict, facilitating a reasonable compromise.

2.0 Duties of Officers

- 2.1 The Chair shall:
- a. chair all meetings of the BIA and of the Board, follow the agenda, and decide on whether motions are in order;
 - b. rule on all procedural matters and maintain decorum;
 - c. ensure motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes;
 - d. have general supervision of the affairs of the BIA;
 - e. along with the Secretary or Treasurer, sign all by-laws and execute any documents, contracts or agreements;
 - f. perform any other duties which the Board may, from time to time, assign;
 - g. sit, ex officio, on all committees; and
 - h. ensure that all past records of the Board are transferred to the succeeding Treasurer when there is a change of Treasurer.
- 2.2 The Vice-Chair shall exercise any or all of the duties of the Chair in the absence of the Chair or if the Chair is unable for any reason to perform those duties.
- 2.3 The Secretary shall:
- a. give notice of each regular and special meeting of the Board together with an agenda of the matters to be considered so that notice and agenda will reach members at least five business days, where feasible, in advance of the meeting;

- b. record the minutes of each meeting and present the minutes at the following meeting for adoption. The minutes shall record:
 - i. the place, date and time of meeting;
 - ii. the name of the Chair;
 - iii. the names of all Board members present, and those not present, at the meeting;
 - iv. the names of all others present at the meeting;
 - v. the correction and adoption of the minutes of the prior meeting; and
 - vi. all motions, decisions and other proceedings of the Board.
- c. record confidential minutes of closed sessions of the Board;
- d. along with the Chair, sign the adopted minutes and submit a copy of the to the Director of Planning and Development;
- e. keep or cause to be kept: the BIA's records and books of the BIA, including BIA by-laws, policies and resolutions; the registry of Officers and Board members; the minutes of the AGM, general meetings, meetings of the Board or any committees thereof, and any committee reports;
- f. certify copies of any record, registry, by-law, resolution or minute; and
- g. give notice of the AGM and general meetings.

2.4 The Treasurer shall:

- a. under the direction of the Board, supervise the expenditure of the funds of the BIA;
- b. keep and maintain the financial records and books of the BIA;
- c. assist the auditor in the preparation of the financial statements of the BIA;
- d. perform any other duties that the Board may from time to time assign;
- e. maintain an inventory of all physical assets owned or leased by the BIA;
- f. prepare and distribute the proposed annual budget in accordance with the requirements of the City; and
- g. prepare and present written financial statements for the Board's review and consideration at each regular meeting and submit the Board-approved statements to the City's Director of Corporate Services.

3.0 Agendas

- 3.1 The Chair, in consultation with the Secretary, and other members of the Board as required, shall establish the agenda for each meeting, based on matters submitted prior to the agenda deadline.
- 3.2 Board members are entitled to submit agenda items for consideration by forwarding them to the Secretary prior to the agenda distribution deadline.
- 3.3 The Secretary shall distribute the agenda and previous meeting minutes to all Board members a minimum of three business days prior to the subject Board meeting.

4.0 Votes

- 4.1 Every member, including the Chair, has a vote on all motions, unless prohibited by law (for example, a declared conflict of interest) in which case the Secretary shall record the name of the member who does not vote and reason for not voting.
- 4.2 The members of the Board shall vote on any motion arising at any meeting of the Board. All motions must be seconded prior to proceeding to a vote.
- 4.3 Motions may include:
- a. motion to approve or adopt an item;
 - b. motion to receive an item;
 - c. motion to postpone or refer an item; and
 - d. motion to adjourn the meeting, provided the motion to adjourn is not made when another member is speaking, a vote has been called, the members are voting, or a member has indicated to the Chair his or her desire to speak on the matter under consideration.
- 4.4 A majority of votes shall decide each motion.
- 4.5 A tie vote means a motion does not carry.
- 4.6 Members have the right to abstain from voting. An abstain vote is a vote in the negative.

5.0 Deputations

- 5.1 The Board may hear deputations from the public at its discretion and may set limits for speaking time.

6.0 Annual General Meeting

- 6.1 The AGM shall include, but not be limited to:
- i. minutes of the last AGM;
 - ii. declarations of conflict of interest;
 - iii. annual activity report of the Board;
 - iv. annual financial report;
 - v. audited financial statement;
 - vi. appointment of auditor for following year;
 - vii. proposed annual budget for the following year;
 - viii. election of the Board (if a municipal election year); and
 - ix. any other business that may properly be brought before the meeting.

7.0 Determination of Motions

- 7.1 All motions arising at any meeting of the BIA members, other than those arising under new business, shall relate to an item on the agenda for that meeting and the Chair shall have the right to determine whether a motion is in order.

All questions shall be decided by a majority vote unless otherwise stated in this by-law or as required by law. At all meetings, every motion shall be decided by a show of hands or voting cards unless a ballot on the motion is required by the Chair or requested by a BIA member. The Chair shall declare that a motion has been carried or not carried. The motion shall be entered into the minutes of the BIA meeting. It is not necessary to record the number or the proportion of votes.



City of
Peterborough

To: **Members of Committee of the Whole**

From: **Mayor Daryl Bennett**

Meeting Date: **September 26, 2016**

Subject: **Report COU16-002**
By-laws and Policies related to Business Improvement Areas
in the City of Peterborough

Purpose

A report recommending a review of the by-laws and provincial legislation surrounding the creation and operation of Business Improvement Areas with the goal of developing local policies to guide existing and new Business Improvement Areas for the benefit of their members and the overall community.

Recommendations

That Council approve the recommendations outlined in Report COU16-002, dated September 26, 2016, as follows:

- a) That staff provide a report with recommendations on updating bylaws and policies to govern the role of Business Improvement Areas as local boards of the municipality dedicated to the beautification and promotion of their respective business districts;
- b) That staff review all aspects, including the geographic territory, of the Downtown Business Improvement Area.
- c) That staff report back to City Council by the end of the first quarter of 2017.

Budget and Financial Implications

There are no budget or financial implications as a result of this report.

Background

With the exciting growth and private-sector investment taking place within the Charlotte Street Commercial District west of the Downtown Business Improvement Area (DBIA) as well as the increasing prominence of the Hunter Street East business district that is served by the East City/Ashburnham Business Improvement Area, it would be prudent for the City to review and update its bylaws and policies related to the creation and operation of Business Improvement Areas (BIA) in the City of Peterborough.

As our commercial districts continue to evolve, the City will experience requests for the establishment of new BIAs and for the alteration of existing BIAs to better serve the needs of businesses within our community. For example, the DBIA has enquired in the past about the potential of expanding its territory.

Since the 2014 election, I have been serving on the Peterborough Downtown Business Improvement Area Board of Management, which is an unusual, and I believe unprecedented, role for a City of Peterborough Mayor. The decision to serve on the DBIA Board was meant to reflect this City Council's elevated level of interest in the economic and social well being of the central business district. In addition to the Mayor representing City Council on the DBIA Board, Council has aggressively moved forward with new investments in infrastructure in the downtown, including the additional \$4.2 million added to the City's 2016 Budget for the construction of an urban park in the current location of the Louis St. parking lot. It has also directed more funding to the DBIA's streetscape maintenance program to improve the cleanliness of the downtown. The previous Council prioritized the construction of a new pedestrian bridge over the Otonabee River between the downtown and East City when the former path adjacent to the rail bridge had to be closed for safety reasons and it approved the estimated \$27-million Jackson Creek flood diversion project that will include the reconstruction of Bethune Street and the creation of a linear park-like setting along the corridor. The City provides incentives for private-sector investment in the downtown through the Central Area Community Improvement Plan. The City continues to dedicate significant resources to the downtown as the central business district is recognized as one of the major generators of economic activity in our community.

While the City can help create the environment for job creation and economic activity, the private sector and the market ultimately determine the success of these efforts. BIAs are a way for businesses to join together to enhance the public space in their business districts and to promote their commercial areas; they are meant to attract activity and investment to their business districts.

Under provincial legislation, BIAs are defined as local boards of their municipalities. Municipalities can focus the efforts of their BIAs by setting their mandates, determining what they can and can't do. For instance, the City of Toronto, in its **Municipal Code, Chapter 19-3**, indicates that its BIAs can do the following activities:

- Streetscape beautification and maintenance
- Branding, promotion and marketing
- Festivals and special events
- Advocating on behalf of the interests of the BIA
- Safety and security initiatives
- Graffiti and poster removal

And the City of Toronto states what its BIAs are not permitted to do, including:

- Fund improvements to private property
- Borrow or lend money
- Incur indebtedness beyond the current fiscal year
- Spend money not accounted for in the budget
- Participate in Ontario Municipal Board, Committee of Adjustment, Licensing Tribunal appeals unless participation and the specific expenditures to support the participation are approved by membership
- Take a position contrary to City Council

The City of Toronto, in its orientation to new BIA Board members, clarifies that as a City Board a BIA cannot take a position contrary to City Council once Council has made a decision; it is acceptable to advocate a contrary position while that issue is moving through the decision-making process, however once Council makes a decision a BIA cannot pursue the matter further.

As a local board of a municipality, a BIA is a public body with its meetings open to the public and its records subject to the **Municipal Freedom of Information and Protection of Privacy Act**. In some other municipalities, the dates and times of Board of Management meetings, along with the agenda packages for those meetings, are either listed on the BIA website or on the municipality's website, as is the case for the Millbrook BIA in Cavan Monaghan Township. This could be considered as part of any direction given by the City of Peterborough to its BIAs.

The downtown remains strong and vibrant, however it has its challenges, as all urban areas have their challenges. Cleanliness and public safety are recurring issues raised by business owners, customers and residents. The City can support the activities of its BIAs by focusing their efforts on the mandates as outlined under the **Municipal Act, 2001** such as beautification and promotion, and by giving clear guidance on the creation, realignment and operation of BIAs within the City of Peterborough.

BIAs can be effective organizations that serve their members and thereby benefit the overall community. The DBIA, for example, has a budget of approximately \$450,000 in 2016 with DBIA members paying \$298,685 in a special levy collected by the City on behalf of the DBIA and the City contributing \$124,500 from general property taxes toward the DBIA's activities. In recent years BIAs have taken steps to increase the amount of activity in their districts by investing in new events and festivals; the DBIA is in the process of implementing a public WiFi system; and the DBIA has made changes to its streetscape maintenance program with the support of the municipality. The East City/Ashburnham BIA, while a much smaller organization than its neighbour, is becoming increasingly active as an association. It is conceivable that the City may receive requests for the creation of new BIAs to meet the needs of emerging or existing business districts.

Now is the time to examine the current legislative framework dealing with BIAs and to update our bylaws and policies concerning these local boards to support future growth.

Submitted by,

Mayor Daryl Bennett

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Daryl Bennett

Mayor

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BY-LAW NUMBER 1980-142

A BY-LAW TO DESIGNATE AN IMPROVEMENT AREA
AND ESTABLISH A BOARD OF MANAGEMENT THEREFOR

WHEREAS Section 361(1) of the Municipal Act provides that the council of a local municipality may pass by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area;

AND WHEREAS the Council of the Corporation of the City of Peterborough has deemed it advisable to designate the lands shaded on the map annexed hereto as Schedule 'A' and forming part of this by-law as an improvement area and to establish a Board of Management therefor;

AND WHEREAS notice of the intention of council to pass this by-law was sent by prepaid mail to every person occupying or using lands for the purpose of or in connection with any business in the said improvement area who was shown in the last revised assessment roll of the Corporation of the City of Peterborough as being assessed for business assessment within the meaning of The Assessment Act;

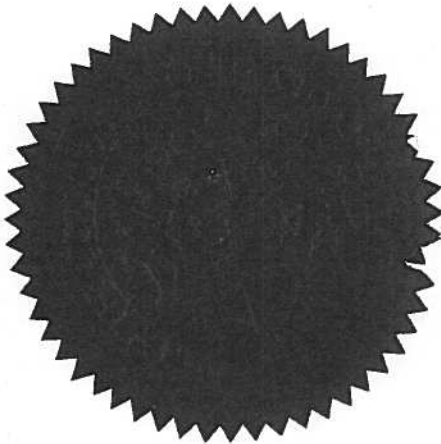
AND WHEREAS no petition objecting to the passing of this by-law, signed by as least one-third of the persons entitled to notice as aforesaid, representing at least one-third of the assessed value of the lands in the said improvement area as the basis for computing business assessment, was received by the Clerk of the Corporation of the City of Peterborough within two months next following the latest day of the mailing of such notice:

NOW THEREFORE THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF ENACTS AS FOLLOWS:

1. The shaded area shown on the map annexed hereto as Schedule A and forming part of this By-law is hereby designated as an improvement area to be called the "Central Business Improvement Area".
2. A Board of Management for the Central Business Improvement Area is hereby established and such Board of Management is hereby entrusted with the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.
3. The Board of Management shall consist of seven members, one of whom shall be a member of the Council of the Corporation of the City of Peterborough.
4. A majority of the members of the Board of Management shall constitute a quorum.
5. The Board of Management shall elect a chairman and a vice-chairman who shall preside in the absence of the chairman.
6. The Board of Management shall appoint a secretary-treasurer, who may be a member of the Board, shall keep minutes of meetings, prepare reports and undertake such other duties as may be directed by the Board and shall forward copies of minutes of meetings to members of the Board, members of the Council, the Clerk and City Administrator within two weeks of the date of any such meeting.
7. The execution of documents by the Board of Management shall be evidenced by the corporate seal and the signatures of the chairman or vice-chairman and of the secretary-treasurer.

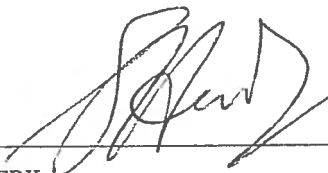
8. The municipal auditor shall act as auditor for the Board of Management and all books, documents, records, minutes and accounts of the Board shall be open to his inspection at all times.
9. The fiscal year of the Board of Management shall be the calendar year.

PASSED the 15th day of December, 1980.

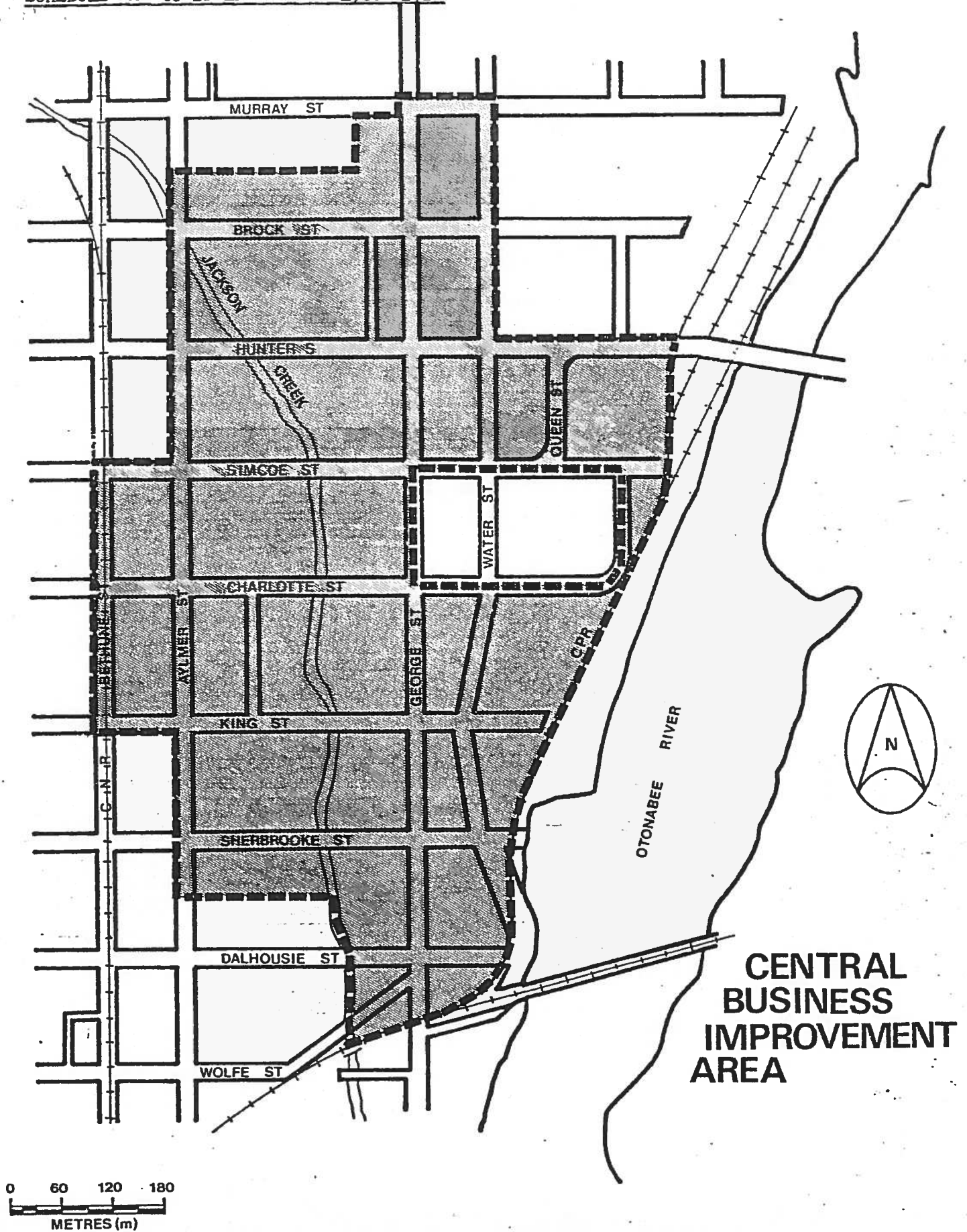




MAYOR



CLERK





M 8116

CITY CLERK'S OFFICE

Referred to: *File*
*with by law*Rec'd. **MAR 31 1982**

Copies to:

Council
Administration

Ontario Municipal Board

IN THE MATTER OF Section 361 of
The Municipal Act (R.S.O. 1970,
c. 284)

- and -

IN THE MATTER OF an application
by The Corporation of the City
of Peterborough for approval of
By-law 1980-142, passed on the
15th day of December, 1980, being
a by-law to designate a certain
area as an Improvement Area to
be known as the Central Business
Improvement Area

B E F O R E :

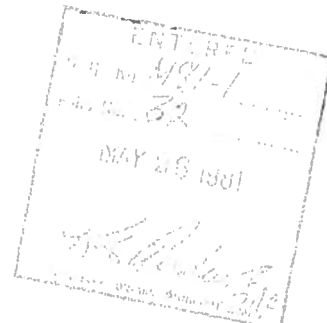
W.H.J. THOMPSON, Q.C.
Vice-Chairman

Monday, the 11th day
of May, 1981

THIS APPLICATION having come on for hearing before
this Board on the 11th day of May, 1981;

THE BOARD ORDERS that this application is hereby granted
and By-law 1980-142, passed by Council of the Corporation
of the City of Peterborough on the 15th day of
December, 1980, designating a certain area, described
in Schedule "A" attached hereto, as an Improvement Area,
is hereby approved.

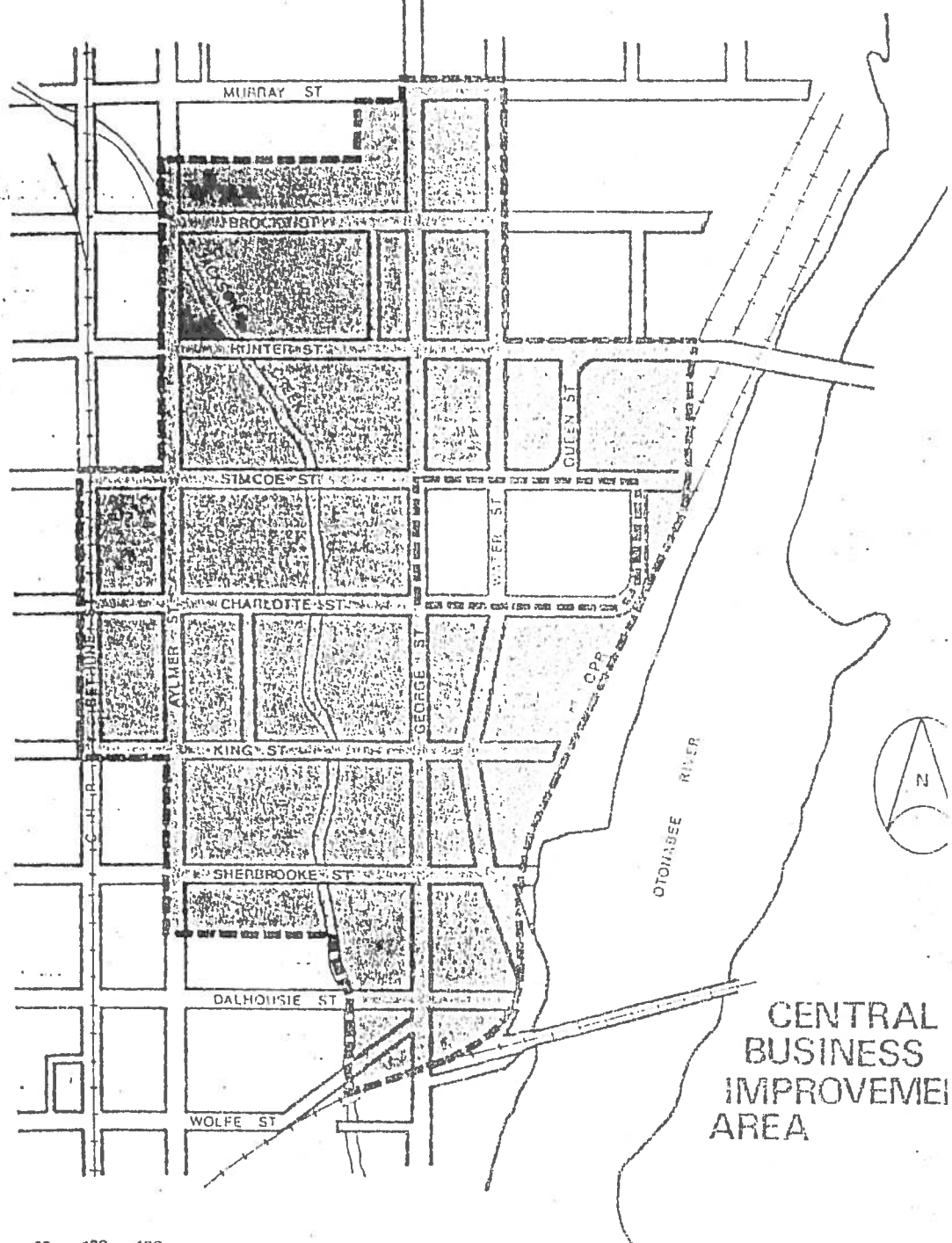
ORDER signed this 26th day of May, 1981.


SECRETARY

SCHEDULE "A"

to the Order of the Ontario Municipal Board made on the 26th day of May, 1981

The Proposed Business Improvement Area
(shaded area)



THE CITY OF PETERBOROUGH
PLANNING DEPARTMENT

DATE: AUG. 18, 1980
SCALE: 1:6000

FILE: DOWNTOWN

BOARD - COMMITTEE

Chapter 64 IMPROVEMENT AREA BOARD OF MANAGEMENT CENTRAL BUSINESS DISTRICT

CHAPTER INDEX

Article 1 AREA - DESIGNATED

- 64.1.1 Central Business Improvement Area - Schedule 'A'

Article 2 GENERAL PROVISIONS

- 64.2.1 Board of Management - established
- 64.2.2 Duty - improvement - beautification - maintenance
- 64.2.3 Composition - 13 members - one Council member
- 64.2.4 Quorum - majority of members
- 64.2.5 Chairman - Senior Vice - Vice - elected
- 64.2.6 Absence - presiding officer - to take chair
- 64.2.7 Members - designated as directors - exception
- 64.2.8 Secretary-Treasurer - appointment - duties
- 64.2.9 Documents - execution - corporate seal - signatures
- 64.2.10 Auditor - authority - to inspect - all books
- 64.2.11 Fiscal year - calendar year

SCHEDULE

Schedule 'A' - Designated Improvement Area

Article 1**AREA - DESIGNATED****64.1.1 Central Business Improvement Area - Schedule 'A'**

The shaded area shown on the map forming Schedule 'A' of this Chapter is hereby designated as an improvement area to be called the "Central Business Improvement Area".

Article 2**GENERAL PROVISIONS****64.2.1 Board of Management - established**

A Board of Management for the Central Business Improvement Area is hereby established.

64.2.2 Duty - improvement - beautification - maintenance

The Board of Management is hereby entrusted with the improvement, beautification and maintenance of municipally-owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area. By-law 1980-142, 15 December, 1980.

64.2.3 Composition - 13 members - one Council member

The Board of Management shall consist of thirteen (13) members, one of whom shall be a member of the Council of The Corporation of the City of Peterborough. By-law 94-06, 17 January, 1994.

64.2.4 Quorum - majority of members

A majority of the members of the Board of Management shall constitute a quorum. By-law 1980-142, 15 December, 1980.

64.2.5 Chairman - Senior Vice - Vice - elected

The Board of Management shall elect a Chairman, a Senior Vice-Chairman and a Vice-Chairman.

64.2.6 Absence - presiding officer - to take chair

In the absence of the Chairman, the Senior Vice-Chairman shall preside and in the absence of both the Chairman and Senior Vice-Chairman, the Vice-Chairman shall preside.

64.2.7 Members - designated as directors - exception

Each member of the Board of Management, except the Secretary-Treasurer, shall be designated a director. By-law 1982-93, 21 June, 1982.

64.2.8 Secretary-Treasurer - appointment - duties

The Board of Management shall appoint a Secretary-Treasurer, who may be a member of the Board, and who shall keep minutes of meetings, prepare reports and undertake such other duties as may be directed by the Board and shall forward copies of minutes of meetings to members of the Board, members of the Council, the Clerk and Administrator within two weeks of the date of any such meeting.

64.2.9 Documents - execution - corporate seal - signatures

The execution of documents by the Board of Management shall be evidenced by the corporate seal and the signatures of the Chairman or Vice-Chairman and of the Secretary-Treasurer.

64.2.10 Auditor - authority - to inspect - all books

The municipal Auditor shall act as Auditor for the Board of Management and all books, documents, records, minutes and accounts of the Board shall be open to his/her inspection at all times.

64.2.11 Fiscal year - calendar year

The fiscal year of the Board of Management shall be the calendar year. By-law 1980-142, 15 December, 1980.

CENTRAL BUSINESS IMPROVEMENT AREA

SCHEDULE

Schedule 'A' - Designated Improvement Area

Schedule 'A' to this Chapter, being a map showing the Central Business Improvement Area, may be examined in the office of the Clerk during normal office hours.

BY-LAW NUMBER 1982- 93

A BY-LAW TO AMEND BY-LAW NUMBER 1980-142

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF ENACTS

AS FOLLOWS:

1. Section 3 of By-law Number 1980-142 is hereby repealed and the following substituted therefor:

3. The Board of Management shall consist of eleven (11) members, one of whom shall be a member of the Council of the Corporation of the City of Peterborough.

2. Section 5 of By-law Number 1980-142 is hereby repealed and the following substituted therefor:

5. The Board of Management shall elect a chairman, a senior vice-chairman and a vice-chairman. In the absence of the chairman, the senior vice-chairman shall preside and in the absence of both the chairman and senior vice-chairman, the vice-chairman shall preside. Each member of the Board of Management, except the Secretary-Treasurer, shall be designated a director.

PASSED THE 21st day of June, 1982.

(Sgd.) Robert J. Barker


MAYOR

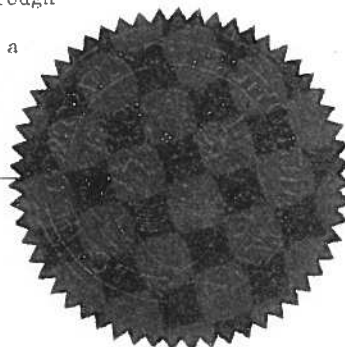
(Seal)

(Sgd.) S. Hendry

CLERK

I CERTIFY the foregoing to be a true copy of By-law Number 1982-93 of the Corporation of the City of Peterborough which was passed through all three readings by the Council thereof at a meeting held June 21, 1982.


CITY CLERK



THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 94-06

**BEING A BY-LAW TO AMEND CHAPTER 64 OF THE CITY OF
PETERBOROUGH MUNICIPAL CODE WITH RESPECT TO THE
COMPOSITION OF THE BOARD OF MANAGEMENT OF THE
CENTRAL BUSINESS IMPROVEMENT AREA**

**THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE
COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:**

1. That Section 64.2.3 is hereby repealed and the following new section is substituted therefor:

**"64.2.3 COMPOSITION - 13 MEMBERS - ONE COUNCIL
MEMBER**

**The Board of Management shall consist of thirteen (13)
members, one of whom shall be a member of the
Council of the Corporation of the City of Peterborough"**

By-law read a first and second time this 17th day of January, 1994

**By-law read a third time and finally passed this 17th day of January,
1994.**

(Sgd) John A. Doris

MAYOR

(Sgd) David W. Oakes

CLERK

THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 89-2

BEING A BY-LAW TO DESIGNATE AN IMPROVEMENT AREA AND ESTABLISH A BOARD OF MANAGEMENT THEREFOR.

WHEREAS SECTION 217(1) OF The Municipal Act, R.S.O. 1980, provides that the council of a local municipality may pass by-laws designating an area as an improvement area and may by by-law establish for any such area so designated a Board of Management to which may be entrusted, subject to such limitations as the by-law may provide, the improvement, beautification and maintenance of municipally-owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area;

AND WHEREAS the Council of the Corporation of the City of Peterborough has deemed it advisable to designate the lands contained within the hatched area on the map annexed hereto as Schedule "A" and forming part of this by-law as an improvement area and to establish a Board of Management therefor;

AND WHEREAS NOTICE OF INTENTION of Council to pass a by-law was sent by prepaid first class mail to every person occupying or using land for the purpose of or in connection with any business in the area who is shown in the last revised assessment roll of the municipality as being assessed for business assessment within the meaning of the Assessment Act;

AND WHEREAS NO PETITION OBJECTING to the passing of this by-law, signed by at least one-third of the persons entitled to notice as set out in the preceding recital, representing at least one-third of the assessed value of the lands in the area that is used as the basis for computing business assessment, is received by the Clerk within two months next following the latest day of the mailing of any such notice:

NOW THEREFORE THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

1. The hatched area shown on the map annexed hereto as Schedule "A" and forming part of this by-law is hereby designated as an improvement area to be called the "EAST CITY/ASHBURNHAM BUSINESS IMPROVEMENT AREA"

2. A Board of Management for the East City/Ashburnham Business Improvement Area is hereby established and such Board of Management is hereby entrusted with the improvement, beautification and maintenance of municipally-owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.
3. (a) The Board of Management shall consist of seven members, one of whom shall be a member of the Council of the Corporation of the City of Peterborough.
(b) Each member shall hold office from the time of his appointment until the expiration of the term of the Council that appointed him, provided he continues to be qualified to hold such office,
(c) The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.
4. A majority of the members of the Board of Management shall constitute a quorum.
5. The Board of Management shall elect a Chairman and a Vice-Chairman who shall act in the absence of the Chairman.
6. The Board of Management shall appoint a Secretary-Treasurer, who may be a member of the Board, and shall keep minutes of meetings, prepare reports and undertake such other duties as may be directed by the Board and shall forward copies of minutes of meetings to members of the Board, members of Council, the City Clerk and the City Administrator, within two weeks of the date of any such meeting.
7. The execution of documents by the Board of Management shall be evidenced by the corporate seal and the signatures of the Chairman or Vice-Chairman and of the Secretary-Treasurer.

8. The Board of Management shall submit to the Council its estimates for the current year at the time and in the form prescribed by Council and may make requisitions upon the council for all sums of money required to carry out its powers and duties, but Council may reject such estimates in whole or in part or providing the money for the purposes of the Board of Management. When money is provided by Council, the Treasurer shall, upon the certificate of the Board of Management, pay out such money to the Board of Management.
9. The Board of Management shall not expend any moneys not included in the estimates approved by the Council or in a reserve fund where such reserve fund is established under Section 165 of The Municipal Act.
10. The Board of Management shall not borrow money and, without the prior approval of the Council, it may not incur any indebtedness extending beyond the current year.
11. The municipal auditor shall be the auditor for the Board of Management and all books, documents, records, minutes and accounts of the Board shall be open to his inspection at all times.
12. The fiscal year of the Board of Management shall be the calendar year.
13. On or before the first day in March in each year, the Board of Management shall submit its annual report for the preceding year to Council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement.

By-law read a first and second time this 3rd day of January, 1989.

By-law read a third time and finally passed this 3rd day of January, 1989.

(Sgd.) Sylvia Sutherland

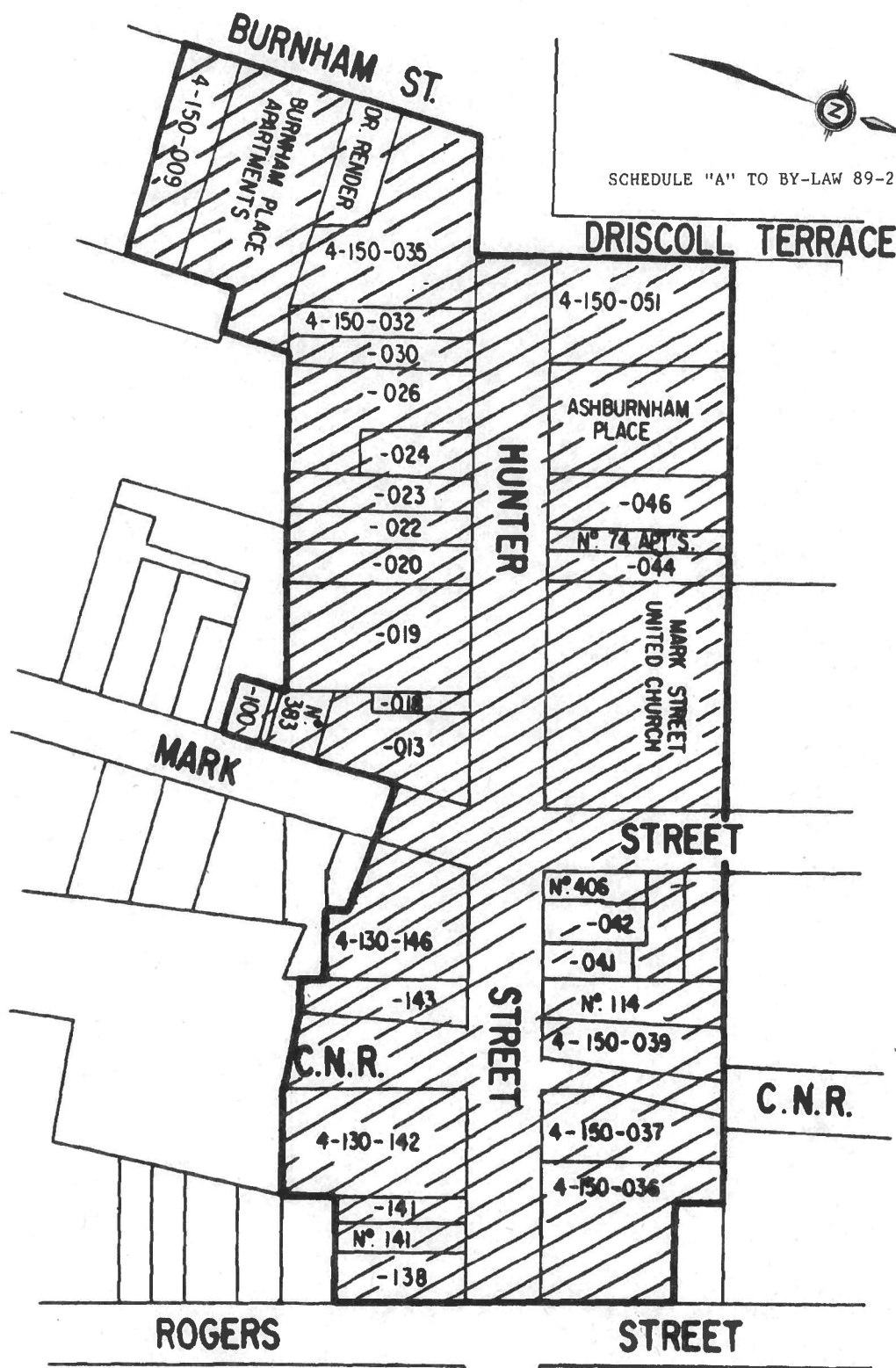
MAYOR

(Sgd.) David W. Oakes

CLERK



SCHEDULE "A" TO BY-LAW 89-2



BOARD - COMMITTEE

Chapter 66 IMPROVEMENT AREA BOARD OF MANAGEMENT EAST CITY/ASHBURNHAM

CHAPTER INDEX

Article 1 AREA - DESIGNATED

- 66.1.1 East City/Ashburnham Business Improvement Area

Article 2 BOARD OF MANAGEMENT

- 66.2.1 Established
- 66.2.2 Duty - improvement - beautification - maintenance
- 66.2.3 Composition - 7 members - one Council member
- 66.2.4 Term - appointment - expiration
- 66.2.5 Reappointment - eligibility
- 66.2.6 Quorum
- 66.2.7 Chairman - Vice-Chairman - elected
- 66.2.8 Secretary-Treasurer - appointment - duties
- 66.2.9 Documents - execution - corporate seal - signatures

Article 3 FINANCIAL

- 66.3.1 Estimates
- 66.3.2 Requisition - to Council - approved - rejected
- 66.3.3 Monies - approved - by Council - paid - by Treasurer

- 66.1.1 IMPROVEMENT AREA - EAST CITY 66.2.4
- 66.3.4 Monies - expended - only - approved
- 66.3.5 Borrowing - beyond year - approval - required
- 66.3.6 Auditor - authority - to inspect - all books
- 66.3.7 Fiscal year - calendar year
- 66.3.8 Report - annual - preceding year - requirements

SCHEDULE

Schedule 'A' - Designated Improvement Area

Article 1 AREA - DESIGNATED

66.1.1 East City/Ashburnham Business Improvement Area
The area shown on the map forming Schedule 'A' of this Chapter is hereby designated as an improvement area to be called the "East City/Ashburnham Business Improvement Area".

Article 2 BOARD OF MANAGEMENT

66.2.1 Established
A Board of Management for the East City/Ashburnham Business Improvement Area is hereby established.

66.2.2 Duty - improvement - beautification - maintenance
The Board of Management is hereby entrusted with the improvement, beautification and maintenance of municipally-owned lands, buildings and structures in the area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.

66.2.3 Composition - 7 members - one Council member
The Board of Management shall consist of seven members, one of whom shall be a member of the Council of The Corporation of the City of Peterborough.

66.2.4 Term - appointment - expiration
Each member shall hold office from the time of his/her appointment until the expiration of the term of the Council that appointed him/her, provided he/she continues to be qualified to hold such office.

66.2.5 Reappointment - eligibility

The members shall hold office until their successors are appointed and are eligible for reappointment on the expiration of their term of office.

66.2.6 Quorum

A majority of the members of the Board of Management shall constitute a quorum.

66.2.7 Chairman - Vice-Chairman - elected

The Board of Management shall elect a Chairman and a Vice-Chairman who shall act in the absence of the Chairman.

66.2.8 Secretary-Treasurer - appointment - duties

The Board of Management shall appoint a Secretary-Treasurer, who may be a member of the Board, and shall keep minutes of meetings, prepare reports and undertake such other duties as may be directed by the Board and shall forward copies of minutes of meetings to members of the Board, members of Council, the Clerk and the Administrator, within two weeks of the date of any such meeting.

66.2.9 Documents - execution - corporate seal - signatures

The execution of documents by the Board of Management shall be evidenced by the corporate seal and the signatures of the Chairman or Vice-Chairman and of the Secretary-Treasurer.

Article 3 FINANCIAL

66.3.1 Estimates

The Board of Management shall submit to the Council its estimates for the current year at the time and in the form prescribed by Council

66.3.2 Requisition - to Council - approved - rejected

The Board of Management may make requisitions upon the Council for all sums of money required to carry out its powers and duties, but Council may reject such estimates in whole or in part or provide the money for the purposes of the Board of Management.

66.3.3 Monies - approved - by Council - paid - by Treasurer

When money is provided by Council, the Treasurer shall, upon the certificate of the Board of Management, pay out such money to the Board of Management.

66.3.4 Monies - expended - only - approved

The Board of Management shall not expend any monies not included in the estimates approved by the Council or in a reserve fund where such reserve fund is established under section 165 of the *Municipal Act* R.S.O. 1980, c. 302, as amended.

66.3.5 Borrowing - beyond year - approval - required

The Board of Management shall not borrow money and, without the prior approval of the Council, it may not incur any indebtedness extending beyond the current year.

66.3.6 Auditor - authority - to inspect - all books

The municipal auditor shall be the auditor for the Board of Management and all books, documents, records, minutes and accounts of the Board shall be open to his/her inspection at all times.

66.3.7 Fiscal year - calendar year

The fiscal year of the Board of Management shall be the calendar year.

66.3.8 Report - annual - preceding year - requirements

On or before the first day in March in each year, the Board of Management shall submit its annual report for the preceding year to Council, including a complete audited and certified financial statement of its affairs, with balance sheet and revenue and expenditure statement. By-law 1989-2, 3 January, 1989.

IMPROVEMENT AREA - EAST CITY

SCHEDULE

Schedule 'A' - Designated Improvement Area

Schedule 'A' to this Chapter, being a map showing the East City/Ashburnham Business Improvement Area, may be examined in the office of the Clerk during normal office hours.