

# Staff Report



Corporate Services Department

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**REPORT TO:** Finance and Corporate Services Committee

**DATE OF MEETING:** August 14, 2023

**SUBMITTED BY:** Amanda Fusco, Director of Legislated Services/City Clerk, 519-741-2345 ext. 7809

**PREPARED BY:** Amanda Fusco, Director of Legislated Services/City Clerk, 519-741-2345 ext. 7809

**WARD(S) INVOLVED:** 8, 9, 10

**DATE OF REPORT:** July 25, 2023

**REPORT NO.:** COR-2023-332

**SUBJECT:** Appointments to Business Improvement Areas & Amendment to Establishing By-law

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## RECOMMENDATION:

That Council confirm the following appointments to the Belmont Business Improvement Area (BIA) Board of Management for a term to expire on November 14, 2026 or upon appointment of their successors;

- George Broughton
- Linda Nelson
- Margaret Tofflemire
- Valeria Rigler
- J D Zehr
- Noelle English

That Council confirm the following appointments to the Downtown Business Improvement Area (BIA) Board of Management for a term to expire on November 14, 2026 or upon appointment of their successors;

- Darryl Moore
- Phong Tran
- Cara Watson
- Jessica Toomer
- Jordan Dolson
- Julie Phillips
- Laird Robertson
- Martha Wallace
- Michael Rederer
- Sarah Pearson

That Chapter 70 of the Municipal Code be amended to reflect the request of the Downtown Business Improvement Area Board of Management to clarify the number of Directors to be elected, in accordance with the by-law in Appendix B.

### **REPORT HIGHLIGHTS:**

- The purpose of this report is to confirm board appointments to the Belmont and Downtown BIA Boards of Management, and to approve an amendment to Chapter 70 of the Municipal Code to clarify the number of Director to be elected.
- This report supports the delivery of core services.

### **BACKGROUND:**

The Municipal Act, 2001, (“ the Act”) governs the process to designate, establish budgets, raise funds, change boundaries and dissolve business improvement areas and their boards of management (“board”). The Belmont BIA was established in 1977 to oversee the improvement, beautification and maintenance of municipally owned land, buildings and structures within its designated boundaries through By-law 77-103, as amended and codified as Chapter 60. The Downtown BIA was established in 1976 to oversee the improvement, beautification and maintenance of municipally owned land, buildings and structures within its designated boundaries through By-law 87-324, and codified as Chapter 70.

The Act governs the composition of a BIA board, section 204(3) states that anyone selected by the BIA for the Board must be appointed by the municipality:

#### **“Composition**

(3) 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. 2001, c. 25, s. 204 (3).”

In accordance with the respective Municipal Code Chapters the term of the appointed members is concurrent with the term of Council that appointed them, provided the members continue to be qualified and members of Council are appointed to serve on the Boards.

The November 16, 2022 Striking Committee appointment of the following members of Council to the Boards of Managements was ratified at the Inaugural Meeting of Council held November 21, 2022;

- **Downtown Business Improvement Association** Appointed - Councillor D. Chapman and Councillor A. Clancy
- **Belmont Business Improvement Area Board of Directors** Appointed - Councillor M. Johnston

### **REPORT:**

With the 2022 Municipal Election, and respecting section 204(3) the BIAs were required to conduct an election at their annual general meeting (AGM) to appoint new members. The Board of Management of BIAs is entrusted, subject to limitations as the by-laws provide, with the

administration of the organization known as the BIA. The election process of BIA Boards of Management is within the control and responsibility of the Board itself. The City of Kitchener does not oversee the election process of BIAs, the ownership of this resides with each individual Board of Directors.

### Belmont BIA

The Belmont BIA held their AGM on November 29, 2022 and the membership of the Belmont BIA elected the following individuals to serve on its' Board of Management for a four-year term (2022 to 2026);

- Susan Parks\*
- George Broughton
- Linda Nelson
- Margaret Tofflemire
- Valeria Rigler
- J D Zehr

\*Susan Parks resigned shortly after the AGM. Due to the vacancy created by the resignation, the Belmont BIA at its' July 25, 2023 Board meeting appointed Noelle English, to fill the vacant Director position in a temporary role until the next AGM.

### Downtown BIA

The Downtown BIA held their AGM on February 7, 2023 and the membership of the Downtown BIA elected the following individuals to serve on its' Board of Management for a four-year term (2022 to 2026);

- Darryl Moore
- Phong Tran
- Cara Watson
- Jessica Toomer
- Jordan Dolson
- Julie Phillips
- Laird Robertson
- Martha Wallace
- Michael Rederer
- Sarah Pearson

In May 2023, Staff were made aware of the new appointments for Council endorsement. Staff have reached out to both BIAs to build connections and ensure that future appointments are communicated promptly to conform with the Act.

In addition, the Downtown BIA Board noted through correspondence received May 12, 2023 (attached as Appendix A) that the Board had undergone a recent review of its' governance structure and practices. As part of that review it was determined that Chapter 70 of the Municipal Code, which designates the Downtown Kitchener BIA and establishes the Board, is silent on the number of Directors the Board is to be comprised of. Chapter 70 also provides that the Board shall include "at least one member of Council". To promote clarity and consistency going forward, the Board has requested that the Code be amended to reflect;

- the existing number of elected" Directors as Ten (10); and
- that the Councillors whose Wards fall within the Downtown Improvement Area are automatically members of the BIA Board; and
- allows the BIA to name "ex-officio" non-voting Directors, as its current practice is to include community stakeholders.

The number of Directors elected by the Downtown BIA Board, although varying since creation, has remained constant at 10 over the past several terms. The Executive Director of the Board has indicated there is sufficient interest from the membership to support the request. Similarly, the practice has been to appoint the Councillors whose wards fall within the respective Downtown and Belmont Areas, and logistically the appointment of a member of council from outside the ward may be counter-intuitive to governance and operations. The flexibility of the Board to appoint additional stakeholders that may assist with operations and planning of their activities would also support collaboration and community-building. As such, Staff recommend that to provide the required level of clarity, the by-law be amended and have prepared a draft amending by-law, attached as Appendix B to this report.

### **STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

### **FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

### **COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

CONSULT – The BIAs provided notice of the required AGM to the stakeholders within their boundaries, and consulted with their membership during the AGM to conduct the appointment and election process undertaken to ratify the members. Economic Development staff that assist and support the BIAs were consulted on the AGM practices, and appointments and draft report.

### **PREVIOUS REPORTS/AUTHORITIES:**

There are no previous reports/authorities related to this matter.

**APPROVED BY:** General Manager, Corporate Services

### **ATTACHMENTS:**

Appendix A – Downtown BIA Request Letter to amend Chapter 70

Appendix B – Draft by-law to amend Chapter 70 to clarify the number of Directors to be appointed