



Subject:	Downtown Beamsville Business Improvement Area Proposed Boundary Expansion
To:	General Business & Finance Committee
From:	Legislative Services

Report Number:	LS-03-19
Wards Affected:	1 and 2
Date to Committee:	Monday, January 7, 2019
Date to Council:	Monday, January 28, 2019

Recommendation:

Approve By-law 2019-xx as attached as Appendix A, a by-law to expand the boundaries of the Beamsville Downtown Business Improvement Area;

Repeal By-law 78-81 and 83-85; and

Enact By-law 2019-xx to come into effect after ratified by Council on January 28, 2019.

Purpose:

Responding to legislation.

Background:

On October 1, 2018, Council approved report CS-18-04 regarding the “Request for Boundary Expansion to the Beamsville Downtown Business Improvement Area” to authorize the Town Clerk to provide notice to the owners of commercial or industrial assessed property within the existing and proposed expanded Improvement Area of the intention to alter the boundaries of the Beamsville Downtown Improvement Area.

Following the provision of notice and in accordance with the *Municipal Act, 2001*, section 210 (5) the Clerk is required to make a determination as to whether the conditions set out in the *Municipal Act, 2001* have been met with respect to altering the existing boundaries of the area. As directed by Council, on October 2, 2018, notice of the proposed expansion to the Beamsville Downtown Improvement Area Boundaries was sent to every person who, on the last returned assessment roll, is assessed for ratable property (commercial or industrial assessment) in the current and proposed improvement areas. As a result; 70 notices were sent; 25 to existing properties within the improvement area and 45 to the proposed expanded improvement area.

The *Municipal Act, 2001* authorizes a municipality to designate an area as an improvement area and establish a board of management to (a) oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality and (b) to promote the area as a business or shopping area. Business Improvement Areas (BIA) are considered as local boards of the municipality for all purposes.

At the Beamsville Downtown BIA board meeting of April 19, 2018, the following motion passed:

“Approval of the expansion map (determined at a meeting of April 3, 2018) to present to the membership, Council and potential new membership.”

The Beamsville Downtown BIA Board held public information sessions for the existing membership and those businesses and property owners affected by the proposed boundary expansion to discuss their proposed boundary expansion. Council authorized the Town Clerk on October 1, 2018, to issue notification of Council’s intent to pass a by-law to expand the boundaries of the Downtown BIA. On October 2, 2018, a total of 70 notices were delivered by mail to property owners of all commercial and industrial property owners (as defined under the assessment act) deemed as ratable properties and subject to a BIA levy within the current and proposed expanded areas. It is the responsibility of those persons receiving notice who have tenants, to give a copy of the notice to each of their tenants. In accordance with the legislative requirements of the *Municipal Act, 2001*, the notice included the following:

1. That within 30 days of the date of the notice, landlords must provide a copy to all tenants that pay a portion of the business property tax and provide the Clerk of the municipality a list of every tenant required to pay taxes on the property as well as the share of taxes each tenant and the property owners pay.
2. That all objections must be received within 60 days of the date of the notice, which expired on December 1, 2018. The *Municipal Act, 2001* stipulates that a municipality shall not pass a By-law to change the boundary of a BIA if, within 60 days of the date of the notice, objections have been received by at least one-third of the total number of people eligible to receive notice, and the objectors must be responsible for at least one-third of the business property taxes.

Report

In response to the October 2, 2018 notice, a total of 3 objections were received with respect to the Beamsville Downtown BIA boundary expansion. 1 objection was received from within the existing BIA boundary and 2 objections were received from the proposed expanded area. The objections received do not meet the thresholds required by the *Municipal Act, 2001* to stop the expansion as they do not represent at least one-third of the total number of people eligible to receive notice, and they are not responsible for at least one-third of the business property taxes.

The BIA Board of Management provides for the promotion of the areas as business or shopping areas and for improvement, beautification, and maintenance beyond that provided at the expense of the municipality at large.

Financial, Legal, Staff Considerations:

Financial:

Administrative processing time and postage costs have been incurred and absorbed by Legislative Services' budget. The Town is required to levy on behalf of the BIA and the BIA levies are included in the town's tax levy by-law. Property tax bills for all taxable commercial properties in the Business Improvement Areas include the BIA levy. The new BIA levy will not be billed until the final tax bill in June 2019.

Staffing:

Notice to owners in the BIA were distributed by the Clerk's Office in accordance with legislative requirements and public notice was provided on the Town of Lincoln's website.

Legal:

Responding to legislation

Public Engagement Matters:

The BIA's Board of Management, in conjunction with the Town's Economic Development Officer, conducted an extensive outreach campaign to local businesses and property owners in the proposed new catchment area to explain the benefits of being part of the BIA and how it can benefit their businesses. In addition, each property/business owner was given an approximate figure on the potential levy impact to their property should the boundary be expanded, pending Board of Management and Council's approval of the 2019 BIA budget.

Conclusion:

Staff completed the formal notification process for an improvement area expansion as prescribed by the *Municipal Act*.

As mentioned previously in this report, the *Municipal Act, 2001* stipulates that a municipality shall not pass a By-law to change the boundary of a BIA if within 60 days of the date of the notice, objections have been received by at least one-third of the total number of people eligible to receive notice, and if that criteria is met, then the objectors must be responsible for at least one third of the business property taxes in either the existing BIA area or the area proposed to be added.

In accordance with Section 210 (5) and (6) of the *Municipal Act, 2001* the Clerk shall determine whether the conditions set out in subsection (3) have been met, and if they are, the determination of the Clerk is final.

Objections were not received from one-third of the total number of people eligible to receive notice; the By-law to facilitate the BIA boundary expansion has been attached to this report for approval by Council.

Respectfully submitted,

Julie Kirkelos
Town Clerk
905-563-2799 Ext. 225

Appendices:

Appendix A: By-law 2019-xx, a by-law to expand the boundaries of the Beamsville Downtown Business Improvement Area and Repeal By-law 78-81 and 83-85

Notification:

Beamsville Downtown BIA – Executive Director

Report Approval:

Report has been reviewed and/or approved by the Town Clerk, Economic Development Officer and Director of Finance. Final approval is by the Chief Administrative Officer.

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. XX-XX

A BY-LAW TO DESIGNATE AN AREA AS AN IMPROVEMENT AREA WITHIN THE BEAMSVILLE DOWNTOWN IN THE TOWN OF LINCOLN AND ESTABLISH A BOARD OF MANAGEMENT PURSUANT TO SUBSECTION 204 (1) OF THE MUNICIPAL ACT, 2001 AND TO REPEAL THE TOWN OF LINCOLN BY-LAW 78-81 AND AMENDING BY-LAW 83-35

WHEREAS in accordance with Subsection 204(1) of the Municipal Act, 2001 S.O. 2001, C. 25 (the "Municipal Act") a local municipality may designate an area as an improvement area and may establish a Board of Management to oversee the improvement, beautification, and maintenance of municipally-owned land, buildings and structures in the area beyond that provided at the expense of the municipality generally and to promote the area as a business or shopping area;

AND WHEREAS Council of The Corporation of the Town of Lincoln has provided notice of its intention to alter the boundaries of the Beamsville Downtown Business Improvement Area pursuant to the Municipal Act;

NOW THEREFORE, the Council of The Corporation of the Town of Lincoln hereby enacts as follows:

1. THAT the area identified on Schedule "A" to this By-law is designated as the Beamsville Downtown Business Improvement Area within the meaning of Section 204 of the Municipal Act.
2. THAT the membership of the improvement area shall consist of persons who are assessed, on the last returned assessment roll, with respect to rateable property in the area that is in a prescribed business property class and tenants of such property.
3. THAT a "Board of Management" to be known as the Board of Management of the Beamsville Downtown Business Improvement Area hereinafter referred to as "the Board".
4. THAT is entrusted to the Board subject to the limitations hereinafter set out, the improvement, beautification and maintenance of municipally owned lands, buildings and structures in the improvement area, beyond such improvement, beautification and maintenance as is provided at the expense of the municipality at large and the promotion of the improvement area a business or shopping area.
5. THAT the Board shall consist of nine members appointed by the Council one of whom shall be a member of Council, and the remaining members shall be persons qualified to be elected as members of the Council assessed for business assessment in respect of land in the area, or nominees of corporations so assessed, provided that such nominees are persons qualified to be elected as members of the Council.
6. THAT the term of the Board of Management is the same as the term of the Council of the Town of Lincoln but continues until their successors are appointed. Directors are eligible for reappointment.
7. THAT if a vacancy occurs for any cause, the municipality may appoint a person to fill the vacancy for the unexpired portion of the term and the appointed person is not required to be a member of the improvement area.

8. THAT the Board shall, as soon as possible after its directors are appointed, elect a chairman and vice-chairman and appoint a secretary and treasurer and such other officers as it may deem necessary to properly conduct the business of the Board during the said year.
9. THAT the Board shall keep proper minutes and records of every meeting of the Board and shall forward certified copies of such minutes and records to all members of the Board and to the Town Clerk as soon as possible after the meeting covered thereby.
10. THAT the Board shall adopt and maintain only banking arrangements and ordinary good accounting practices that are acceptable to the Treasurer of the Town of Lincoln and keep such books, records, accounts and documents and submit the same from time to time as the Town Treasurer may require.
11. THAT the Town's Auditor shall be the auditor of the Board and all books, documents, transactions, minutes and accounts of the Board shall, at all times, be open to their inspection.
12. THAT the fiscal year of the Board shall be the calendar year.
13. THAT on or before the first day of March in each year, the Board 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.
14. THAT the Board shall submit to Council its projects and estimates for the current year at the time and in the form prescribed by the Council and may make requisitions upon the Council for all sums of money required to carry out its powers and duties, but nothing herein divests the Council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board and, when money is so provided by the Council the Treasurer shall, upon the certificate of the Board, signed by the Treasurer thereof, pay out such money to the Board.
15. THAT the Board shall not expend any monies not included in the estimates approved by the Council or in a reserve fund that may be established under the Municipal Act.
16. THAT the Board shall not incur any indebtedness extending beyond the current year.
17. THAT the Board shall deposit and keep on deposit with the Town Treasurer, insurance policies satisfactory in all respect to the Town Treasurer, indemnifying the Town against public liability and property damage in respect of the activities of the Board.
18. The Board shall indemnify and save harmless the Town against all claims and shall pay the Town's costs and expenses incurred as a result of the Town resisting any claim and/or defending any action commenced thereunder.
19. THAT Council shall in each year levy a special charge upon persons in the improvement area assessed for business assessment sufficient to provide a sum equal to the sum of money provided for the purposes of the Board for that area, which shall be born and paid by such persons in the proportion that the assessed value of the real property that issued as the basis for computing the business assessment of each of such persons bears to the assessed value of all the real property in the improvement area used as the basis for computing business assessment.

20. THAT a charge imposed under Section 19 of this By-Law shall be deemed to be taxes on property.

21. THAT Bylaw 78.81 and 83-35 be repealed in their entirety.

22. THAT this By-Law comes into full force and effect upon finally being passed.

BY-LAW read a FIRST time this 28th day of January, 2019.

BY-LAW read a SECOND time this 28th day of January, 2019.

BY-LAW read a THIRD time and FINALLY PASSED this 28th day of January, 2019.

MAYOR: SANDRA EASTON

CLERK: JULIE KIRKELOS

By-Law Number XX-XX Schedule “A”

The Beamsville Downtown Business Improvement Area as defined in the
attached Map

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Metric Scale:

