

<b>TO:</b>	<b>CHAIR AND MEMBERS PLANNING AND ENVIRONMENT COMMITTEE MEETING ON SEPTEMBER 25, 2017</b>
<b>FROM:</b>	<b>ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>
<b>SUBJECT:</b>	<b>DESIGNATION OF AN IMPROVEMENT AREA UNDER SECTION 204 OF <i>THE MUNICIPAL ACT, 2001</i> – HYDE PARK BIA</b>

<b>RECOMMENDATION</b>
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That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, the attached proposed by-law (Appendix “A”) being “A by-law to designate an area as an improvement area and to establish the board of management for the purpose of managing the Hyde Park Business Improvement Area” BE INTRODUCED at the Municipal Council meeting to be held on October 3, 2017 to designate the Hyde Park Business Improvement Area in accordance with section 204 of the *Municipal Act, 2001*.

<b>PREVIOUS REPORTS PERTINENT TO THIS MATTER</b>
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Planning an Environment Committee Report – May 8, 2017 – Designation of an Improvement Area under Section 204 of the *Municipal Act, 2001* – Hyde Park BIA.

<b>BACKGROUND</b>
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At its session held on May 16, 2017, the Municipal Council passed the following resolution:

“That on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer and City Manager:

- a) the proposed by-law appended to the staff report dated May 8, 2017, to designate an area as an improvement area in accordance with section 204 of the *Municipal Act, 2001* BE APPROVED IN PRINCIPLE; and
- b) the Civic Administration BE DIRECTED to proceed with issuing notices in accordance with section 210 of the *Municipal Act, 2001* to every person who, on the last returned assessment roll, is assessed for ratable property that is in a prescribed business property class which is located in the proposed improvement area”

In accordance with the above resolution, on July 6, 2017, the Civic Administration issued the notices required under section 210 of the *Municipal Act, 2001* to every person who owns property in the proposed improvement area. The notices indicated that these persons were required to give a copy of the notice to all tenants who were required to pay all or part of the taxes on the property and provide a list of all such tenants to the City Clerk within 30 days. A form for listing tenants, a copy of the draft by-law and a form for submitting an objection to the draft by-law were included with the notice.

The notice issued by the City indicated that persons who were responsible for property taxes had the right to object to the creation of the improvement area. The notice described the process for objecting, the deadline date for submitting objections of September 5, 2017 and the objection threshold which would prevent Municipal Council from having the legal authority to pass a by-law to establish the proposed improvement area. In accordance with section 210 of the *Municipal Act, 2001*, the Municipal Council cannot enact a by-law to establish an improvement area if at least one-third of the total number of persons responsible for property taxes, in the proposed improvement area, file objections, provided those persons also represent at least one-third of the total local general municipal levy in the proposed improvement area.

The Civic Administration has tabulated all the objections and performed the calculations as required under section 210 of the *Municipal Act, 2001*. The results are summarized on the attached Appendix "B". Less than one-third of the persons eligible to object have filed a notice to object. As indicated on the attached Appendix "B", 19.38% of the persons eligible to object have done so. In accordance with subsection 210(5) of the *Municipal Act, 2001*, the City Clerk has determined that the objections received are not sufficient to prevent the enactment of a by-law to establish the proposed improvement area and has issued a certificate affirming that fact. In accordance with section 209 of the *Municipal Act, 2001*, the establishment of the proposed improvement area is at the discretion of Municipal Council.

The significant contribution of staff in the Legal and Clerk's Division, Planning Services and other Service Areas who have assisted in the preparation of this report and attachment is acknowledged.

<b>SUMMARY</b>
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In summary, it is recommended that the attached proposed by-law (Appendix "A") be introduced at the Municipal Council meeting to be held on October 3, 2017 to designate the Hyde Park Business Improvement area and establish the related board of management.

<b>PREPARED BY:</b>	<b>CONCURRED BY:</b>
<b>JIM LOGAN DIVISION MANAGER, TAXATION &amp; REVENUE</b>	<b>IAN COLLINS DIRECTOR, FINANCIAL SERVICES</b>
<b>RECOMMENDED BY:</b>	
<b>ANNA LISA BARBON MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>	

Attach.

- c.     J. Smout       J. Yanchula
- C. Saunders   K. Killen
- J. Edmunds

## APPENDIX "A"

Bill No.  
2017

By-law No.

A by-law to designate an area as an improvement area and to establish the board of management for the purpose of managing the Hyde Park Business Improvement Area.

WHEREAS subsection 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25 as amended provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS subsection 10(1) of the *Municipal Act, 2001* provides that a municipality may provide any service or thing that the municipality considers necessary or desirable for the public;

AND WHEREAS subsection 10(2) of the *Municipal Act, 2001* provides that a municipality may pass by-laws respecting: in paragraph 1, Governance structure of the municipality and its local boards; paragraph 2, Accountability and transparency of the municipality and its operations and of its local boards and their operations; paragraph 3, Financial Management of the municipality and its local boards; in paragraph 7, Services and things that the municipality is authorized to provide under subsection (1);

AND WHEREAS subsection 204(1) of the *Municipal Act, 2001* provides a local municipality may designate an area as an improvement area and may establish a board of management,

- (a) 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
- (b) to promote the area as a business or shopping area.

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

### 1.0 Definitions

1.1 For the purpose of this by-law,

**"Board of Management"** means the corporation established under this by-law under the name The Hyde Park Business Improvement Association Board of Management;

**"Hyde Park Business Improvement Area"** means the area as described in section 2.1.

**"City"** means The Corporation of the City of London;

**"Council"** means the Council of the City;

**"Member"** means the 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.

## 2.0 Designation of the Business Improvement Area

- 2.1 The area comprising those lands in the City of London indicated within the boundary shown on Schedule "A" attached to this by-law, commencing at a point in the northerly limit of the Canadian National Railway right-of-way where it is intersected by the west limit of plan 33M-595; thence westerly following along the northerly limit of the Canadian National Railway right-of way and its projection across Hyde Park Road to the south-east angle of Part 23, 33R-16526 being where the northerly limit of the Hyde Park Rotary Link intersects the CNR ROW; thence westerly and northerly along the northerly and easterly limit of the Hyde Park Rotary Link being comprised of Parts 23, 22, 21, 17, 16, 5, 3, and 8 on 33R-16526 projected to the east limit of Part 1 on 33R-13987, also being the north-east angle of Part 12 on 33R-16526; thence continuing northerly along the easterly limit of the Hyde Park Rotary Link defined by Part 1 on 33R-13987, Part 1 on 33R-13986 and Part 2 on 33R-12801 and their projections across Gainsborough Road and Fanshawe Park Road West to the northerly limit of Fanshawe Park Road West; thence westerly along the northerly limit of Fanshawe Park Road West to the westerly limit of the property known municipally as 1683 and 1689 Fanshawe Park Road West; thence northerly along the west limit of the property known municipally as 1683 and 1689 Fanshawe Park Road West to the northerly limit thereof; thence easterly along the northerly limit of the properties known municipally as 1683, 1689 and 1671 and the projection thereof to the easterly limit of the Hyde Park Rotary Link being a point in the easterly limit of Part 1 on 33R-12801; thence northerly along the easterly limit of the Hyde Park Rotary Link and Part 1, 33R-12801 to the line between the north and south halves of Lots 25 and 24, Concession 5 in the geographic Township of London, County of Middlesex, to the west limit of Hyde Park Road; thence southerly along the west limit of Hyde Park Road to the westerly projection of Part 1 on plan 33R-19075; thence easterly along the aforesaid projection and the southerly limit of Part 1 on 33R-19075 and continuing along the southerly limit of plan 33M-685 to the west limit of Dalmagarry Road; thence easterly in a direct line to the north-west angle of Block 28, 33M-623; thence easterly along the north limit of Block 28, 33M-623 to the east limit of said Block 28; thence southerly along the easterly limit of Block 28, 33M-623 to the northerly limit of Fanshawe Park Road West; thence westerly along the northerly limit of Fanshawe Park Road West to the westerly limit of Dalmagarry Road; thence southerly along the projection of and along the westerly limit of Dalmagarry Road to the northerly limit of Part 5 on plan 33R-15826; thence westerly along the northerly limit of Part 5 on plan 33R-15826 to the easterly limit of Hyde Park Road; thence southerly along the easterly limit of Hyde Park Road to the northerly limit of Block 120, 33M-541; thence easterly long the northerly limit of Block 120, 33M-541 to the easterly limit thereof; thence southerly along the easterly limit of Block 120, 33M-541 to the southerly limit thereof; thence easterly along the southerly limits of Block 119 and Block 118 on plan 33M-541 and its projection to the westerly limit of Coronation Drive; thence southerly along the westerly limit of Coronation Drive to the north limit of Gainsborough Road; thence southerly across Gainsborough Road in a direct line to the north-east angle of Part 2 on 33R-3984; thence southerly along the easterly limit of Part 2, 33R-3984 to the south-east angle thereof; thence westerly along the southerly limit of Part 2, 33R-3984 to the south-westerly angle thereof, also being a point in the easterly limit of Part 1, 33R-10656; thence southerly along the easterly limit of Part 1, 33R-10656 to the south-easterly angle thereof; thence westerly along the southerly limit of Part 1, 33R-10656 and along the northerly limit of MCC 759 and MCC 684 to the north-west angle of MCC 684; thence southerly along the westerly limit of MCC 684 to the south-west angle thereof; thence continuing southerly along the easterly limit of Block 8, 33M-526 to the northerly limit of South Carriage Road; thence southerly in a direct line to a point in the southerly limit of South Carriage Road being the north-westerly angle of Part 1, 33R-19419; thence southerly along the westerly limits of Parts 1 and 3, 33R-19419 to the south-west corner of Part 1, 33R-19419, also being a point in the northerly limit of Part 2, 33R-17801; thence easterly and southerly along the northerly limit of Part 2, 33R-17801 to the south-easterly angle of said Part 2, also being the northerly limit of the Canadian Pacific Railway right-of-way; thence southerly in a direct line to the southerly limit of the Canadian Pacific Railway right-of-way to the north-west angle of Part 2, 33R-9289; thence easterly along the southerly limit of the Canadian Pacific Railway right-of-way to the north-east angle of Part 1, 33R-9829; thence southerly along the easterly limit of Parts 1, 4, 9, 10, 11 & 12 of 33R-9829 to the northerly limit of Sarnia Road; thence westerly along the northerly limit of Sarnia Road to a point being the northerly projection of the west limit of Plan 33M-595; thence southerly along the projection of and the westerly limit of 33M-595 to the point of commencement.

### **3.0 Board of Management Established**

- 3.1 A Board of Management is established under the name The Hyde Park Business Improvement Association Board of Management.
- 3.2 The Board of Management is a corporation.
- 3.3 The Board of Management is a local board of the City for all purposes.
- 3.4 The objects of the Board of Management are:
- (a) 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
  - (b) to promote the area as a business or shopping area.
- 3.5 The Board of Management is not authorized to:
- (a) acquire or hold an interest in real property; or
  - (b) to incur obligations or spend money except in accordance with section 6.
- 3.6 The head office for the Board of Management shall be located in the City of London.

### **4.0 Board Composition**

- 4.1 The Board of Management shall consist of seven (7) directors as follows:
- (a) at least one director appointed by Council; and
  - (b) the remaining directors selected by a vote of the Members and then appointed by Council.
- 4.2 Council may refuse to appoint a Member selected under section 4.1(b) in which case Council may:
- (a) leave the position vacant; or
  - (b) direct that a meeting of the Members be held to select another candidate for Council's consideration.
- 4.3 Directors shall serve for a term that is the same as the term of the Council that appoints them or until their successors are appointed.
- 4.4 The seat of a director becomes vacant if a director is absent from the meeting(s) of the Board of Management for three consecutive meetings without being authorized to do so by a resolution of Council.
- 4.5 If the seat of a director becomes vacant for any reason, the Council may fill the vacancy for the remainder of the vacant director's term.
- 4.6 A director may be reappointed to the Board of Management.
- 4.7 Council may, by a resolution passed by a majority of its members, remove a director at any time.
- 4.8 Directors shall serve without remuneration.

### **5.0 Board Procedures**

- 5.1 Council may pass by-laws governing the Board of Management and the affairs of the Board of Management and the Board of Management shall comply with such by-laws.

- 5.2 By-laws passed by the Board of Management must not conflict with City by-laws passed under section 5.1.
- 5.3 The Board of Management shall pass by-laws governing its proceedings, the calling and conduct of meetings, and the keeping of its minutes, records and decisions consistent with any requirements set out in a by-law of the City.
- 5.4 A majority of the directors constitutes a quorum at any meeting of the Board of Management.
- 5.5 Despite any vacancy among the directors, a quorum of directors may exercise the powers of the Board of Management.
- 5.6 A director has only one vote.
- 5.7 The meetings of the Board of Management and the meetings of the Members shall be open to the public and only those persons that the Board of Management considers to have engaged in improper conduct at a meeting may be excluded from the meeting.
- 5.8 The Board of Management may close a meeting, or a part of the meeting to the public only in accordance with section 239 of the *Municipal Act, 2001*.
- 5.9 (1) The Board of Management shall hold at least ten (10) meetings during each fiscal year and the interval between one meeting and the next shall not exceed sixty (60) days.
- (2) A majority of directors may requisition a special meeting of the Board of Management by serving a copy of the requisition on the chair or vice-chair of the Board of Management.
- (3) The chair of the Board of Management may call a special meeting of the Board of Management at any time whether or not he or she has received a requisition under subsection (2).
- 5.10 (1) The Board of Management shall elect from its directors a chair and vice-chair.
- (2) The chair and vice-chair are eligible for re-election.
- 5.11 (1) The Board of Management shall appoint a secretary who shall:
- (a) give notice of the meetings of the Board of Management;
- (b) keep all minutes of meetings and proceedings of the Board of Management;
- (c) record without note or comment all resolutions, decisions and other proceedings at a meeting of the Board of Management whether it is closed to the public or not; and
- (d) perform such duties, in addition to those set out in clauses (a), (b) and (c) as the Board of Management may from time to time direct.
- 5.12 (1) The Board of Management may appoint such committees as it determines necessary to conduct the business of the Board of Management .
- (2) Each committee appointed shall be composed of not fewer than three (3) directors of the Board of Management and shall perform such duties and undertake such responsibilities as the Board of Management specifies and shall report only to the Board of Management.
- (3) Any director may be the chair or vice-chair of a committee.
- 5.13 The *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50* applies to the directors and Members.
- 5.14 Council may designate an appointed official of the City who shall have the right to attend meetings of the Board of Management and its committees and to participate in their deliberations but is not entitled to vote, be the chair or vice-chair or act as the presiding officer at a meeting.

5.15 The Board of Management shall comply with all applicable provisions of the *Municipal Act, 2001* including, but not limited to, those relating to business improvement areas, meetings, records, remuneration and expenses, the development of policies and procedures and financial administration.

## **6.0 Financial**

6.1 (1) The Board of Management shall prepare and submit to the Council annually a budget of its estimated revenues and expenditures by the date and in such form and detail as required by the City Treasurer.

(2) The Board of Management shall hold a meeting of the Members for discussion of the budget.

(3) Prior to submitting the budget to the Council, the Board of Management shall hold a meeting of the Members for discussion of the budget.

(4) Council may approve the budget in whole or in part and may make such changes to it as Council considers appropriate, but Council may not add expenditures to it.

6.2 The Board of Management shall not:

(a) spend any money unless it is included in the budget approved by the Council or in a reserve fund established by the Council under section 417 of the *Municipal Act, 2001*;

(b) incur any indebtedness extending beyond the current year without the prior approval of the Council; or

(c) borrow money.

6.3 The fiscal year of the Board of Management is the same as the fiscal year of the City.

6.4 The accounts and transactions of the Board of Management shall be audited annually by the auditor of the City.

6.5 The Board of Management shall prepare and submit to Council, not later than March 31<sup>st</sup> each year an annual report for the preceding year which shall include the audited financial statements.

6.6 The Board of Management shall provide the City Treasurer with such financial information as the City Treasurer may require.

6.7 (1) The Board of Management shall keep proper books of account and accounting records with respect to all financial and other transactions of the Board of Management, including, and without limiting the generality of the foregoing:

(a) records of all sums of money received from any source whatsoever and disbursed in any manner whatsoever; and

(b) records of all matters with respect to which receipts and disbursements take place in consequence of the maintenance, operation and management of the Board of Management.

(2) The Board of Management shall keep or cause to be kept and maintained all such books of accounts and accounting records as the City Treasurer may require.

6.8 The Board of Management shall make all of its books and records available at all times to such persons as the City Treasurer may require and shall provide certified true copies of such minutes, documents, books, records or any other writing as the City Treasurer may require.

- 6.9 (1) Council may require the Board of Management:
- (a) to provide information, records, accounts, agendas, notices or any paper or writing; and
  - (b) to make a report on any matter, as Council determines, relating to the carrying out of the purposes and objects of the Board of Management.
- (2) The Board of Management shall:
- (a) file with the City Treasurer all such information records, accounts, agendas, notices, paper and all other materials as the City Treasurer may require; and
  - (b) make such reports within the time specified by the City Treasurer and containing such content as the City Treasurer may require.
- 6.10 (1) The Board of Management shall from time to time provide the City Treasurer as requested with statements of:
- (a) revenues and expenditures;
  - (b) profit and loss; and
  - (c) such financial matters or operating expenditures as the City Treasurer may require.
- (2) The statements referred to in subsection (1) shall be in such form as the City may require.
- 6.11 (1) The City is entitled to receive any profits resulting from the operations of the Board of Management and is responsible for any losses incurred by the Board of Management.
- (2) Council may determine what constitutes profits for the purpose of subsection (1).
- 6.12 (1) Upon dissolution of the Board of Management, the assets and liabilities of the Board of Management become the assets and liabilities of the City.
- (2) If the liabilities assumed under subsection (1) exceed the assets assumed, the Council may recover the difference by imposing a charge on all rateable property in the former improvement area that is in a prescribed business property class.

## **7.0 Indemnification & Insurance**

- 7.1 (1) Subject to subsection (2), every director or officer of the Board of Management and his or her heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the Board of Management from and against,
- (a) any liability and all costs, charges and expenses that he or she sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him or her for or in respect of anything done or permitted by him or her in respect of the execution of the duties of his or her office; and
  - (b) all other costs, charges and expenses that he or she sustains or incurs in respect to the affairs of the Board of Management.
- (2) No director or officer of the Board of Management shall be indemnified by the Board of Management in respect of any liability, costs, charges or expenses that he or she sustains or incurs in or about any action, suit or other proceeding as a result of which he or she is adjudged to be in breach of any duty or responsibility imposed upon him or her under any Act unless, in an action brought against him or her in his or her capacity as director or officer, he or she has achieved complete or substantial success as a defendant.



(3) The Board of Management may purchase and maintain insurance for the benefit of a director or officer thereof, except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of his or her failure to exercise the powers and discharge the duties of his or her office honestly, in good faith and in the best interests of the Board of Management, exercising in connection therewith the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

7.2 The Board of Management shall obtain and maintain at all times insurance coverage in a form acceptable to the City of the types and amounts appropriate for a Board of Management of its size and business type which coverage shall include the City with respect to any loss, claims or demands made against the Board of Management.

## **8.0 Meetings of Members**

8.1 The Board of Management shall call at least one (1) meeting of the Members in each calendar year.

8.2 Notice for all Members' meetings shall be:

(a) Sent by prepaid mail to each Member not less than 15 days prior to the meeting. Notice shall be mailed to the address last provided by the Member to the Board of Management or, where no address is provided, to the property address of the owner(s) indicated on the last municipal assessment roll; or

(b) Delivered personally to each Member.

8.3 Notice of a meeting of the Members shall include an agenda.

8.4 Each Member has one vote regardless of the number of properties that the Member may own or lease.

8.5 A Member that is a corporation may nominate in writing one individual to vote on its behalf.

8.6 A majority of the Members constitutes a quorum at any meeting of the Members.

8.7 The Board of Management has the authority to call any special meeting of the Members it deems necessary.

## **9.0 General**

9.1 Council may by by-law dissolve the Board of Management and any property of the Board of Management remaining after its debts have been paid vests in the City.

9.2 This by-law may be referred to as the "Hyde Park Business Improvement Association Board of Management By-law".

9.3 This by-law comes into force and effect on the day it is passed.

PASSED in Open Council

Matt Brown  
Mayor

Catharine Saunders  
City Clerk

First reading –  
Second reading –  
Third reading –