



STAFF REPORT TO BIA BOARD

Date: May 12, 2025

From: Matthew Armstrong, Chief Administrative Officer & Treasurer

Re: BIA Board Governance

Recommendation:

For information.

Background:

By-law 40-79 was passed to designate an Improvement Area in Prescott which included the following.

- Both sides of King Street from Edward Street to George Street
- Both sides of Water Street from Edward Street to George Street
- Both side of Centre Street from King Street to Water Street

The Board of Management for the Business Improvement Area in Prescott was established through By-law 41-79

By-law 54-86 was passed to enlarge the existing Business Improvement Area to include the following.

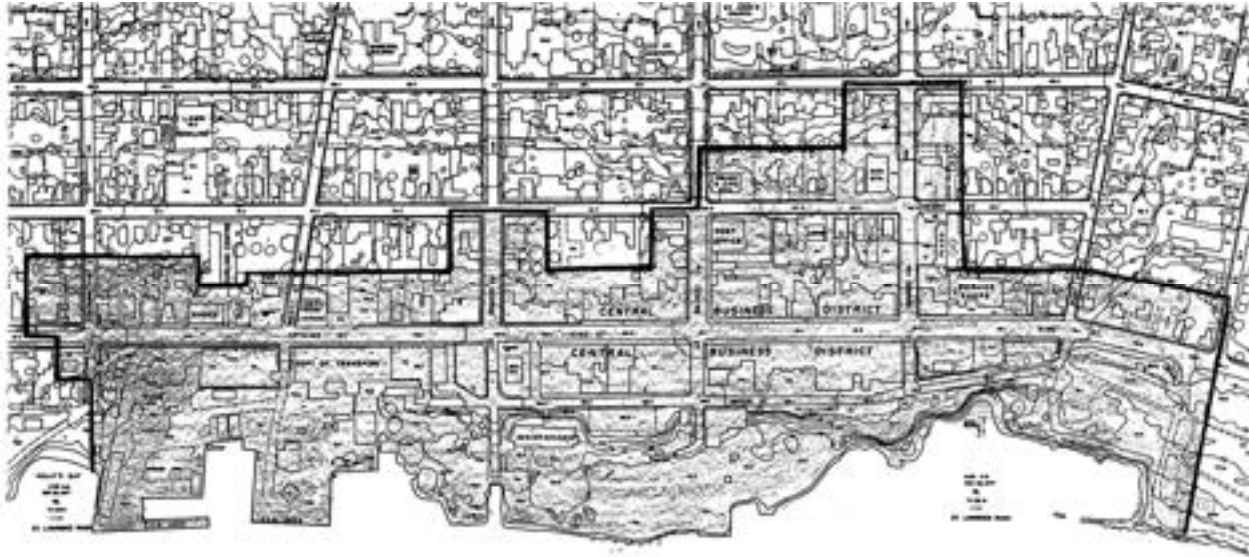
- All of King Street, both sides, from the antique and ice cream shops in the west, to its intersection with Vankoughnet Street
- All of Water Street, both sides
- Both sides of Henry Street, from Centre to Edward Street
- Edward Street, both sides, from Dibble to Water Street
- Centre Street, both sides, from Henry to Water Street
- George Street, both sides, from Henry to Water Street

The map below was included in the By-law for further clarification of the area.

PRESCOTT

EST 1784

THE FORT TOWN



Sections 204 to 215 of the Municipal Act, 2001 as amended, govern the Business Improvement Areas.

By-law 08-2019 was passed by Council to update the original By-law 41-79. This amendment was written by the Town's legal firm and addressed the following items.

- Definitions
- Align the Board's mandate with the Municipal Act, 2001
- Stipulate the number of board members
- Clarify Board membership, roles, and terms
- Stipulate the Procedural By-law for The BIA Board of Management which was included as Schedule A
- Stipulate that the BIA Board is to follow the Town's Procedural By-law and Employee Hiring Policy
- Further alignment of the By-law with the Municipal Act, 2001

Clarifications:

Q: Does the BIA area have to align with the Official Plan?

A: No, they are unrelated. The Official Plan is a planning document and is unrelated to the BIA function and purpose.

Q: Does the BIA area have to align with the zoning bylaw?

A: No, they are unrelated. The Zoning By-law is a planning document and is unrelated to the BIA function or purpose.

Q: Does the BIA area have to align with the Community Improvement Plan?



A: No, they are unrelated. The Community Improvement Plan is a program to provide incentives to property owners and tenants and is unrelated to the BIA function and purpose.

Q: Does the BIA have to follow the Town's Procedural By-law?

A: No, the BIA has a separate and distinct Procedural By-law which was included as Schedule A of By-law 08-2019.

Q: Is the Policies and Procedures Relating to Governance and Decision Making – BIA By-law 1.2018 still relevant to how the BIA functions?

A: No, BIA By-law 1.2018 was never approved nor passed by Council, and was subsequently superseded by the Council By-law 08-2019, which complies with the Municipal Act, 2001.

Q: What is the purpose of the BIA?

A: The purpose of a BIA is defined in the Municipal Act, 2001 as follows.

- 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.

Current Situation

The Town and BIA have built a strong partnership that has been leveraged to make improvements in the BIA area that are above the level the Town could normally provide. This partnership has also been used to develop events and initiatives to draw visitors to Prescott and specifically the BIA area, to work, shop, and enjoy the multitude of amenities available. These two outcomes directly relate to the purpose of the BIA as identified in the Municipal Act.

Nothing that the BIA or Town has done or is currently doing takes away from the hard work, foresight, and accomplishments of those that came before. It is in fact building on the solid foundations laid in the past that is allowing Prescott to thrive and adapt to an every changing economic, technological, and social environment.

This has been discussed with Kay Matthews, Executive Director of the Ontario BIA Association and she concurs that the partnership that the Town and BIA have built here in Prescott is admirable and has directly related to our success.

Alternatives:

None.



Financial Implications:

None.

Environmental Implications:

None.

Attachments:

- By-law 40-79 – To Designate an Improvement Area
- By-law 41-79 – To establish a Board of Management for the Business Improvement Area in Prescott
- By-law 54-86 – To enlarge the existing Business Improvement Area
- Municipal Act, 2001 as amended Sections 204-215
- By-law 08-2019 – To amend By-law 41-79

CORPORATION OF THE TOWN OF PRESCOTT
BY-LAW NO. 40-79

BEING A BY-LAW TO DESIGNATE AN IMPROVEMENT AREA

WHEREAS notice of intention of the Council to pass a By-Law designating the area hereinafter described as an improvement area has been given as required by the Municipal Act and no sufficiently signed petition objecting to the passing of the By-Law has been received within the time prescribed.

NOW, THEREFORE, the Council of the Corporation of the Town of Prescott enacts as follows:

1. The area comprised of the land hereinafter described is designated an improvement area within the meaning of the Municipal Act for the purpose of improving, beautifying and maintaining municipally owned lands and structures in the area beyond the improvement, beautification and maintenance provided at the expense of the municipality at large, and the promotion of the area as a business or shopping area.

Both Sides of King St. from Edward St. to George St.
Both Sides of Water St. from Edward St. to George St.
Both Sides of Centre St. from King St. to Water St.

2. A sum sufficient to pay the cost of the improvement, beautification and maintenance referred to in Section 1 for the area, as established by estimates adopted for the year for the purpose, shall be levied as a special charge in each year upon the person assessed for business assessment in the area. Such sum shall be borne and paid by such persons in the proportion that the assessed value of the real property that is used 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 area as the basis for computing business assessment.

3. The charges levied pursuant to Section 2 shall be collected in the same manner and with the same remedies as provide for the collection of taxes upon business assessment.

4. This By-Law shall not come into force and take effect until approved by the Ontario Municipal Board.

Finally passed this 5th day of November 1979.

Sandra L. Law

MAYOR

[Signature]

CLERK



M 79404

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 Town
of Prescott for approval of
By-law 40-79, passed on the 5th
day of November, 1979, being a
by-law to designate a certain
area as an Improvement Area to be
known as Prescott Business
Improvement Area

B E F O R E :

H.E. STEWART,
Chairman

- and -

D.H. McROBB,
Member

Tuesday, the 4th day
of December, 1979

UPON IT APPEARING that notice of intention to pass By-law 40-79
had been given as required by statute and not sufficiently
signed petition objecting to its passage had been filed with
the Clerk of the Town of Prescott;

THE BOARD ORDERS that this application is hereby granted and
By-law 40-79, passed by Council of the Corporation of the
Town of Prescott on the 5th day of November, 1979, designating
the area described as:

Both sides of King Street from Edward Street
to George Street;

Both sides of Water Street from Edward Street
to George Street; and

Both sides of Centre Street from King Street
to Water Street

as an Improvement Area, to be known as Prescott Business
Improvement Area, is hereby approved.




SECRETARY



CORPORATION OF THE TOWN OF PRESCOTT

BY-LAW NO. 41-79

BEING A BY-LAW TO ESTABLISH A BOARD OF MANAGEMENT FOR THE BUSINESS
IMPROVEMENT AREA IN PRESCOTT

NOW, THEREFORE, the Council of the Corporation of the Town of Prescott enacts
as follows:

1. In this By-Law

AREA means the improvement area designated in By-Law No. 40-79

BOARD means Board of Management of the Prescott Business Improvement area.

BUSINESS ASSOCIATES means all persons assessed for business assessment in the
area.

MEMBER(S) means a member(s) of the Board of Management of the Business
Improvement Area.

COUNCIL means the Council of the Corporation of the Town of Prescott.

CORPORATION means the Corporation of the Town of Prescott.

CLERK-TREASURER means the Clerk-Treasurer of the Corporation of the Town of
Prescott.

2. That A Board of Management for the Prescott Business Improvement Area is hereby
established.

3. That the Board is entrusted, subject to such limitations hereinafter set out, 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.

4. The Board shall consist of nine members appointed by Council, two of whom
shall be members of Council, and the remaining members shall be persons qualified
to be elected members of Council assessed for business assessment in respect of land
in the area or nominees of corporations so assessed, provided such nominees are
persons qualified to be elected as members of the Council.

5. Each member shall hold office for a period of one year from the time of
appointment, provided the member continues to be qualified as provided in Section 4.

6. Where a vacancy occurs from any cause, the Council shall appoint a person,
qualified as set out in Section 4 to be a member, who shall hold office for the
remainder of the term for which the preceding member was appointed.

7. Members shall hold office until their successors are appointed, and they are
eligible for re-appointment on the expiration of their term of office.

8. The Board may make recommendations to Council with respect to appointments to the Board from the Business Associates.
9. The Board shall, within 7 days or as soon as possible after its members are appointed in each year, elect a chairman and vice-chairman and appoint a secretary and/or treasurer, and such other officers as it may deem necessary to conduct properly the business of the Board during the said year.
10. The Board shall keep proper minutes and records of every meeting of the Board and shall forward true copies of such minutes and records to all members and the Clerk-Treasurer as soon as possible after the meeting covered thereby.
11. The Board shall adopt and maintain only banking arrangements and ordinary good accounting practices that are acceptable to the Clerk-Treasurer and keep such books of account and submit such statements from time to time as the Clerk-Treasurer may require.
12. The Municipal 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 his inspection and the Board shall pay the auditors for any expenses so incurred.
13. The fiscal year of the Board shall be the calendar year.
14. On or before the first day in 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.
15. The Board shall submit to Council an annual budget in a form and at a time satisfactory to the Council, and within the limits of the estimates as approved by Council.
16. After the annual budget is approved, the money to be provided shall be paid by the Clerk-Treasurer to the Board from time to time upon receipt of a certificate authorized by the Board.
17. The Board shall provide at its expense and deposit and keep on deposit with the

Clerk-Treasurer insurance policies satisfactory in all respects to the Council indemnifying the Corporation against public liability and property damage in respect of the activities of the Board.

18. The Council shall in each year levy a special charge upon persons in the area assessed for business assessment in accordance with the provisions of the Municipal Act sufficient to raise the funds requested in the annual budget of the Board approved by the Council.

19. The annual budget of the Board shall be approved at the annual meeting of the Business Improvement Area and shall not exceed 35% of the total business assessment levied against the Business Improvement Area in the previous year for municipal and school purposes.

20. The Board and the Business Associates shall hold an annual meeting no later than the first week in February, but only on a Monday, Tuesday or Wednesday of any week.

21. Every member of the Board and every Business Associate shall be notified in writing at least 14 days prior to the annual meeting, and the said notice shall indicate location, time, an agenda, and a proposed budget for the following year.

22. Every Business Associate in the Business Improvement Area shall have one vote; members must be present to cast a vote and a majority vote shall be any percentage over 51 percent of the vote.

23. In November of each year the secretary shall call a general meeting of all the Business Associates for the purpose of picking interested persons for recommendation to Council to be considered for appointment to the Board for the following year.

24. This By-Law shall not come into force and take effect until By-Law No. 40-79 being the By-Law to designate the Improvement Area is approved by the Ontario Municipal Board.

Finally passed this 5th day of November, 1979.

Sandra S. Lawn

Mayor

[Signature]

Clerk

CORPORATION OF THE TOWN OF PRESCOTT

BY-LAW NO. 54-86

BEING A BY-LAW TO ENLARGE THE EXISTING BUSINESS IMPROVEMENT AREA

WHEREAS the Municipal Act, Section 217(26), Chapter 302 R.S.O. 1980 provides that the Council may pass By-Laws for designating as an enlarged improvement area an area that includes all of an existing improvement area.

AND WHEREAS By-Law 40-79 passed November 5, 1979 designated a Business Improvement Area

AND WHEREAS Notice of Intention of the Council to pass a By-Law under Section 217(26) of the Municipal Act has been given as required and no sufficiently signed petition objecting to the passing of the By-Law has been received within the time prescribed.

NOW THEREFORE, the Council of the Corporation of the Town of Prescott enacts as follows:

1. The area comprised of the lands shown on Schedule "A" attached and hereinafter described is designated an improvement area within the meaning of the Municipal Act for the purpose of improving, beautifying and maintaining Municipally owned lands and structures in the area beyond the improvement, beautification and maintenance provided at the expense of the Municipality at large, and the promotion of the area as a business or shopping area.

All of King Street, both sides, from the antique and ice cream shops in the west, to its intersection with Vankoughnet Street.

All of Water Street, both sides.

Both sides of Henry Street, from Centre to Edward Street.

Edward Street, both sides, from Dibble to Water Street.

Centre Street, both sides, from Henry to Water Street.

George Street, both sides, from Henry to Water Street.

2. A sum sufficient to pay the cost of the improvement, beautification and maintenance referred to in Section 1 for the area, as established by estimates adopted for the year for the purpose, shall be levied as a special charge in each year upon the person assessed for business assessment in the area. Such sum shall be borne and paid by such persons in the proportion that the assessed value of the real property that is used 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 area used as the basis for computing business assessment.
3. The charges levied pursuant to Section 2 shall be collected in the same manner and with the same remedies as provide for the collection of taxes upon business assessment.
4. The Board of Management for this Business Improvement Area shall be as established under By-Law No. 41-79 and operate under the provisions therein established.
5. This By-Law shall take effect January 1, 1987 or on any other date specified by the Ontario Municipal Board.

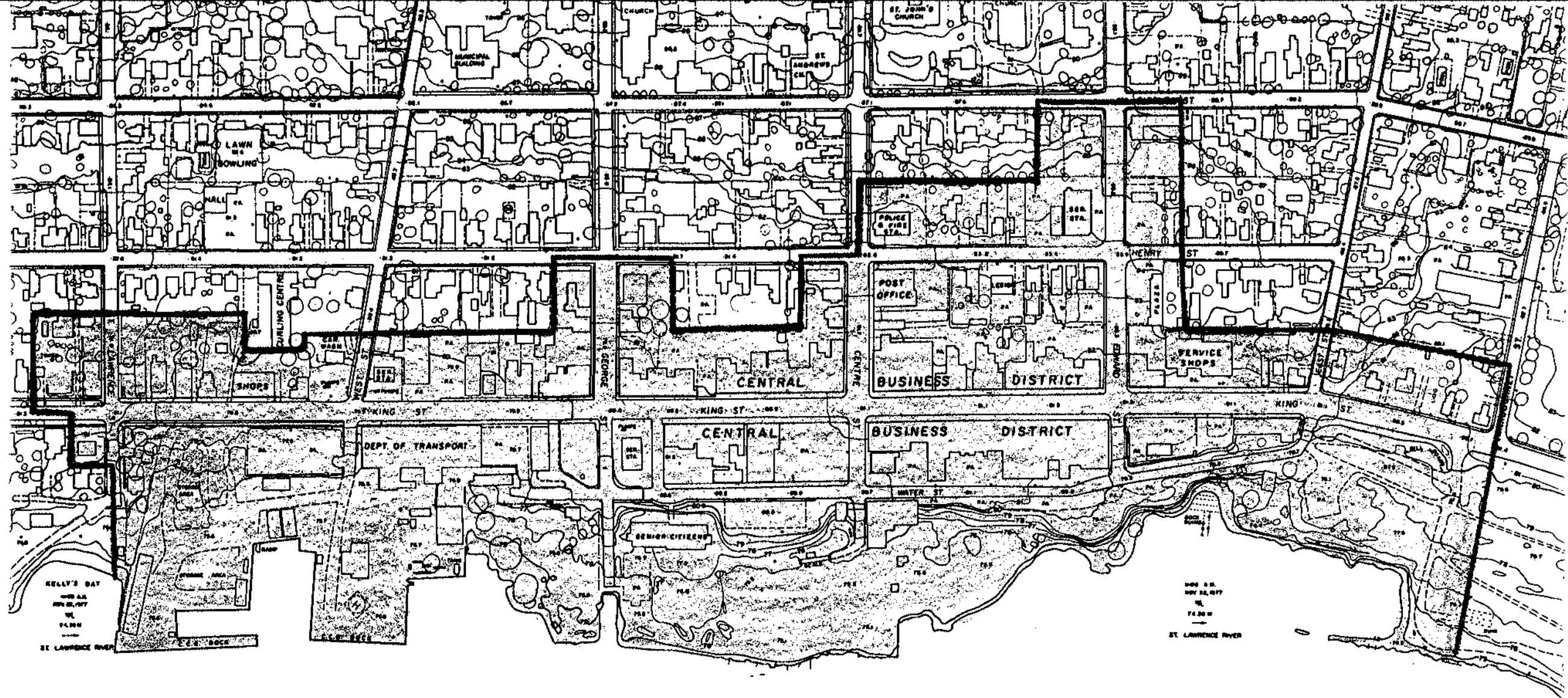
6. By-Law No. 40-79 is hereby rescinded.

Read a first and second time this 17th day of November 1986.

Sandra S. Lawen - *Ruth Hogenboom*
Mayor Clerk

Read a third time and finally passed this 6th day of April 1987.

Sandra S. Lawen *Ruth Hogenboom*
Mayor Clerk



Schedule "A" to By-Law No. 54-86

Business Improvement Area in red

RECEIVED JUN 01 1987



Ontario Municipal Board

M 860085

IN THE MATTER OF Section 217 of the
Municipal Act (R.S.O. 1980, c. 302)

- and -

IN THE MATTER OF an application by the
Corporation of the Town of Prescott for
approval of proposed By-law 54-86, having
first and second readings on the 17th day
of November, 1986, being a by-law for the
enlargement of an existing Business
Improvement Area

C O U N S E L:

B.F. Laushway - for the Town of Prescott

MEMORANDUM OF ORAL DECISION delivered by H.H. LANCASTER
on March 17, 1987

Pursuant to Section 217 of the Municipal Act, the Corporation of the Town of Prescott has applied to the Ontario Municipal Board for approval of By-law 54-86, being a by-law for the enlargement of an existing Business Improvement Area.

By-law 40-79, enacted on November 5, 1979, designated the central core of the business district of the Town of Prescott as an Improvement Area (Exhibit 4). The Town now wishes to expand its Business Improvement District to include most, if not all, of the business establishments within the municipality (also depicted on Exhibit 4).

The evidence of the Main Street Program Co-Ordinator and of Chairman of the Board of Management for the existing district, indicated that following what might be called a slow start, the improvement and promotional programs have begun to show their effects within the Town over the past two years.


While opposition to the proposal was expressed by three business properties within the intended area on the basis that such a program would be of no benefit to them, and, in their opinion, the survey of owners and proprietors within the intended area did not appear to be a complete survey.


The evidence of the Clerk Administrator for the Town disclosed that the survey was based on the last Assessment Roll, and that there could well have been some changes since that Roll was returned. His evidence disclosed that 35.4 per cent of the businesses within the total area initially objected to the proposal but that those businesses represented only 22.9 per cent of the total assessment.

The three objecting proprietors also expressed concern as to the expenditure of the funds raised for the purpose, particularly the portion of the salary paid to the Main Street Program Co-Ordinator.

The Board is satisfied on the evidence that the Town generally is benefitting from the establishment of the existing Business Improvement Area, and is of the opinion that the greater number of business establishments should participate in the costs, which should, accordingly, be reduced on a per capita basis.

The Board will therefore approve By-law 54-86.


H.H. LANCASTER
MEMBER


RENÉ CHARTIER
MEMBER

**THE CORPORATION OF THE
TOWN OF PRESCOTT**

BY-LAW NO. 08-2019

**A BY-LAW TO AMEND BY-LAW 41-1979, BEING A BY-LAW TO ESTABLISH A
BOARD OF MANAGEMENT FOR THE BUSINESS IMPROVEMENT AREA IN
PRESCOTT**

**Being a by-law to amend By-Law 41-1979, being a by-law to establish a Board of
Management for the Business Improvement Area in Prescott**

WHEREAS sections 8, 9, 10, 35 and 450 of the *Municipal Act, 2001*, S.O. 2001, c. 25 authorize the Town to pass by-laws and make decisions necessary or desirable for municipal purposes; and

WHEREAS Council deems it expedient to amend By-law 41-79, being A By-law to Establish a Board of Management for the Business Improvement Area in Prescott, to ensure compliance with the provisions of the *Municipal Act, 2001* governing Business Improvement Areas and to make certain procedural improvements to governance;

NOW THEREFORE the Council of the Town of Prescott enacts as follows:

1. By-law 41-79 is amended by deleting section 1 and replacing that section with the following:
 1. In this By-law:
 - a. "Board" is the board of management for the Business Improvement Area;
 - b. "Business Improvement Area" means the area designated as an improvement area by by-law 54-86 to establish the business improvement area, passed under the *Municipal Act, 2001*;
 - c. "By-law 41-79" means the by-law passed on November 5, 1979 by Council of the Town of Prescott to establish a Board of Management for the Business Improvement Area and as subsequently amended by by-law 19-87 passed on April 6, 1987, and as further amended from time to time;
 - d. "Council" means the Council of the Town of Prescott;

- e. "Designating By-law" means by-law 54-86 passed by Council of the Town of Prescott to establish a designated area as a Business Improvement Area, as such by-law may be amended from time to time;
 - f. "Member" or "Membership" means 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, in accordance with the Municipal Act, 2001; and
 - g. "Town" means the municipality of the Town of Prescott or the geographic area of the Town of Prescott as the context requires.
2. By-law 41-79 is further amended by deleting sections 3 through 9 and replacing those sections with sections 3 through 9 as follows:
3. The Board's mandate is as follows:
- a. To oversee the improvement, beautification, and maintenance of municipally-owned land, buildings and structures in the Business Improvement Area beyond Town standard levels provided at the expense of the Town generally;
 - b. To promote the business improvement area as a business, employment, tourist and shopping area; and
 - c. To advocate on behalf of the interests of the Business Improvement Area.
4. The Board shall consist of a minimum of seven (7) directors and a maximum of eleven (11) directors and shall be composed of one or two members appointed directly by Council and the remainder selected by a vote of the Members of the Business Improvement Area to be recommended for appointment by Council.
5. (i) The term of the directors of the Board is the same as the term of Council but continues until their successors are appointed, as long as the director continues to be qualified.
- (ii) Each director is eligible for reappointment on the expiration of the term of his or her office. The Chair, Vice-Chair, Secretary, and Treasurer have a one-year term and may only hold the position for two consecutive terms.
- (iii) Subjection to section 6, if a Board vacancy occurs for any reason, a Member or representative of the Member may be nominated by the Board to fill the vacancy for the unexpired portion of the term. The nomination shall be brought forward to Council for consideration.
6. Council may refuse to appoint to the Board an individual selected by the Members

of the Business Improvement Area, in which case Council may leave the position vacant, appoint another person, or direct that a meeting of the Members of the Business Improvement Area or of the Board be held to elect or nominate another candidate for Council's consideration. Upon the next term of Council, an individual previously refused by Council may have their name put forward to sit on the Board.

7. The Board shall, at its first Board meeting following of its appointment by Council:
 - (i) adopt and follow the Procedural By-law attached as Schedule "A" to this By-law;
 - (ii) adopt and follow the Town's Procurement By-law;
 - (iii) adopt and follow the Town's Employee Hiring Policy; and
 - (iv) elect a Chair, Vice-Chair, Secretary, and Treasurer and such other officers from its directors as the Board may deem necessary to properly conduct the business of the Board, as soon as possible after its Members are appointed to the Board.
8.
 - (i) Eligibility to vote at general meetings and at Annual General Meetings shall take place in accordance with the Procedure By-law attached as Schedule "A" to this by-law;
 - (ii) The Board shall give reasonable notice to Members of a meeting to hold a vote under section 4 or of a meeting to discuss the budget for the purpose of section 11(ii).
9.
 - (i) If the Board resolves to seek the removal of a director from the Board or the appointment of a replacement or additional director to the Board, it shall give to the Chief Administrative Officer of the Town a completed request for Board appointment nomination or removal form, and signed minutes of the meeting at which the vote was held on the matter. The Chief Administrative Officer shall report to Council who may act in accordance with sections 4 and 6.
 - (ii) In the case of the removal of a director, notice must be provided by the Board to the director at least five business days in advance of the Board meeting at which the matter will be considered.
3. By-law 41-79 is further amended by deleting sections 11, 12, and sections 14 through 18 and replacing those sections with the following sections 11, 12, and 14 through 18:
 11.
 - (i) The Board shall adopt and maintain banking arrangements and accounting procedures acceptable to Council and shall submit such financial statements, in addition to those required under subsections 205(1) and 207(1) of the Municipal Act and as Council may require.

- (ii) The Board shall prepare and submit to Council a proposed budget for each fiscal year on or before March 31 in each year and shall hold at least one meeting of the Members of the Business Improvement Area for discussion of the proposed budget before its submission to Council.
 - (iii) Council may approve the budget in whole or in part but may not add expenditures to it.
 - (iv) 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 Annual General Meeting and through the year-end financial report;
 - b) incur any indebtedness extending beyond the current year without the prior approval of Council; or
 - c) borrow money.
12. The Board shall have its' revenue, expenses and the balance of reserve fund audited as part of the Town's overall yearly Financial Audit and will be included in the Town's Financial Statements as a separate note.
14. The Board shall participate in coverage under the Town's commercial general liability insurance policies and programs.
15. The Board shall notify the Town regarding any potential or actual litigation and shall keep the Town informed with respect to the progress of such matters.
16. The Board shall comply with all applicable provisions of the Municipal Act, including, but not limited to those relating to Business Improvement Areas, Meetings' Records, Remuneration and Expenses and Financial Administration.
17. The Board shall also comply with the Municipal Freedom of Information and Protection of Privacy Act, Municipal Conflict of Interest Act, and the Town's Code of Conduct for Members of Local Boards, Town's Purchasing By-law, the Town's Procedural By-law, the Town's Hiring Policy, Policy on Use of Town Resources during an Election, including the Town's policy on the participation of directors in election campaigns.

18. Any notice required to be provided by the Board shall:

- (i) be in writing;
- (ii) be hand-delivered or sent by mail address not less than 5 business days before the meeting;
- (iii) set out the date, time and place of the meeting; and
- (iv) include a statement of the intention of the Board.

4. By-law 41-79 is further amended by deleting sections 19 through 24 and replacing those sections with the following sections 19 through 21:

19. Section 210 of the Municipal Act, 2001 does not apply to minor boundary alterations involving:

- a) a property that has been included or excluded from a Business Improvement Area as a result of error; or
- b) a merging of formerly separate properties or a division of a formerly single property that results in a portion of the property being included in a Business Improvement Area and a portion being excluded.

20. Any property under subsection 19(a) which has been excluded from a Business Improvement Area as a result of an error shall be deemed to be included in the geographic area of the Business Improvement Area and the applicable map in the Designating By-law may be amended accordingly.

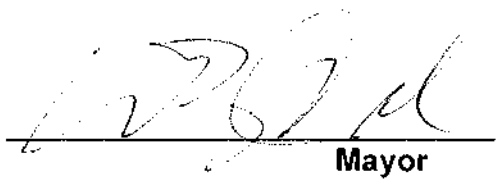
21. Any property under subsection 19(b) which has a portion included in a Business Improvement Area shall be deemed to be included in its entirety in the geographic area of the Business Improvement Area and the applicable map in the Designating By-law may be amended accordingly.

GENERAL:

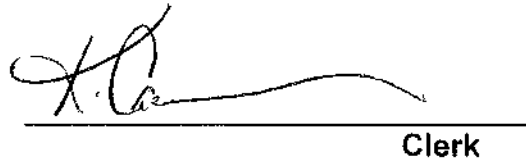
5. This amending by-law may be referred to as the "Business Improvement Area Establishing By-law".

6. This Amending By-law comes into force on the day it is passed.

READ A FIRST AND SECOND TIME THIS 4th DAY OF FEBRUARY,
2019.

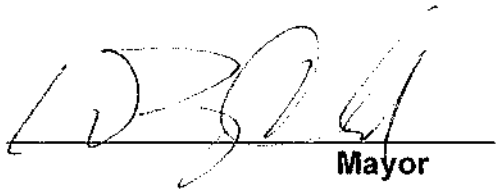


Mayor

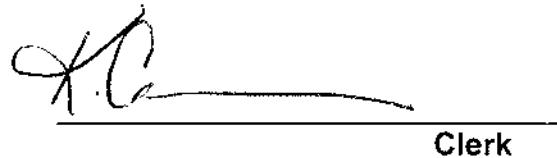


Clerk

READ A THIRD AND FINAL TIME AND PASSED THIS 4th DAY OF
FEBRUARY, 2019.



Mayor



Clerk

Schedule A to By-law 08-2019
A By-law to Amend By-law No. 41-79 Being A By-law to Establish a
Board of Management for the Business Improvement Area in Prescott

Business Improvement Area Procedure By-law

ARTICLE 1
General

1.1 Definitions

As used in this by-law, the following terms shall have the meanings indicated:

"Act" means the Municipal Act, 2001, S.O. 2001, c. 25;

"Annual General Meeting" means a meeting of the Board for which notices are distributed to all Members at which the Board presents a report on the program, accomplishments and forecasted revenues and expenses for the current year; the Members consider the budget for the following year and the previous year's audited financial statements, and appoint an auditor to prepare an audited financial statement for the current year; and the Membership elects Members to the Board when required.

"Board" is the board of management for the Business Improvement Area;

"Business Day" means Monday through Friday, but does not include a business day that is also a Holiday;

"Business Improvement Area" means the area designated as an improvement area by by-law 54-86 to designate the business improvement area, passed under the Municipal Act, 2001;

"Council" means the Council of the Town of Prescott;

"Designating By-law" means by-law 54-86 passed by Council of the Town of Prescott to establish a designated area as a Business Improvement Area, as such by-law may be amended from time to time;

"Establishing By-law" means by-law 41-79 passed on November 5, 1979 by Council of the Town of Prescott to establish a Board of Management for the Business Improvement Area and as subsequently amended by by-law 19-87 passed on April 6, 1987, and as further amended from time to time;

"General Meeting" means a meeting that is not an Annual General Meeting for which notices are distributed to all Members;

"Holiday" means New Year's Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day (Canada), Remembrance Day, Christmas Day, Boxing Day or any other day designated by Town Council as a holiday;

"Member" or "Membership" means 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, in accordance with the Municipal Act, 2001;

"Procedure By-law" means the by-law mandated by Council to be approved by the Board as included as a schedule to the Establishing By-law;

"Quorum" means the number of directors to be present at the Board meeting, General Meeting or Annual General Meeting to legally conduct business at the meeting;

"Town" means the municipality of the Town of Prescott or the geographic area of the Town of Prescott as the context requires;

- B. In this chapter, a reference to an Act, regulation or by-law is to that Act, regulation or by-law as it is amended or re-enacted from time to time.

1.2 Appendices

The following appendices are attached to and form part of this by-law:

- i) Appendix A, Business Improvement Area Board of Management Procedures
- ii) Appendix B, Eligibility to Vote - general meetings and annual general meetings
- iii) Appendix C, Eligibility to be Nominated as a Director
- iv) Appendix D, Business Improvement Area Map

ARTICLE 2 Business Improvement Area

2.1 Alteration to the Boundary of the Business Improvement Area

Council may alter the boundaries of the Business Improvement Area and the Board for the Business Improvement Area is continued as the Board for the altered area.

ARTICLE 3

Board of Management

3.1. Purpose of the Business Improvement Area Board

The purpose of the Board is:

- A. To oversee the improvement, beautification, and maintenance of municipally-owned land, buildings and structures in the Business Improvement Area beyond Town standard levels provided at the expense of the municipality generally;
- B. To promote the Business Improvement Area as a business, employment, tourist or shopping area; and
- C. To advocate on behalf of the interests of the Business Improvement Area subject to the limits set out in this chapter.

3.2 Requirements of the Board

Members of the Board Shall:

- A. Operate in compliance with all applicable provisions of the Municipal Act, including, but not limited to those relating to Business Improvement Areas, Meetings' Records, Remuneration and Expenses, and Financial Administration;
- B. Operate in compliance all applicable Town policies and law, including but not limited to, the Municipal Freedom of Information and Protection of Privacy Act, Municipal Conflict of Interest Act, and the Town's Code of Conduct for Members of Local Boards, Town's Purchasing By-law, the Town's Procedural By-law, the Town's Hiring Policy, Policy on Use of Town Resources during an Election, including the Town's policy on the participation of directors in election campaigns;
- C. Exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the Business Improvement Area;
- D. Exercise the degree of care, diligence, and skill that a reasonable and prudent person would exercise in comparable circumstances; and
- E. Comply with the decisions of the Board.

Members of the 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 Annual General Meeting and through the year-end financial report;
- 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 in any form to political candidates or political parties;
- E. Advertise or pay for advertisements in any political publication;
- F. Make or fund any physical improvements to private property;
- G. Participate in a hearing of the Ontario Municipal Board, Local Planning Appeals Tribunal, Committee of Adjustment, hearing of the Licence Appeal Tribunal, or other similar tribunal, 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. Notwithstanding Subsection G, the Board is not required to conduct a General Meeting of the Membership to obtain approval to participate in an Ontario Municipal Board or Local Planning Appeals Tribunal hearing if the Board has been called as a witness;
- I. Pass a resolution or take a position contrary to any Council-approved policy or decision;
- J. Hold a Board meeting, Annual General Meeting or General Meeting of the Membership on a Holiday;
- K. Designate any of its decision making-powers to a committee or sub-committee of the Board; or
- L. Make grant applications without first seeking support from Council.

3.3 Appointment of directors

- A. The directors of the Board shall be appointed by Council, who retains the right to remove any appointed director at any time for any reason and may make the director ineligible to serve on the Board for that four-year term of office.

- B. The Board shall consist of a minimum of seven (7) directors and a maximum of eleven (11) directors and shall be composed of one or two members appointed directly by Council and the remainder selected by a vote of the Members of the Business Improvement Area to be recommended for appointment by Council.
- C. Directors are not required to be residents of the Town of Prescott.
- D. If, during the term of office, the status of a director changes so that he or she is no longer a Member, the Board may adopt a motion at the next scheduled meeting requesting Council, to remove the director from the Board.
- E. The term of the directors of the Board is the same as the term of Council but continues until their successors are appointed, as long as the director continues to be qualified.
- F. Each director is eligible for reappointment on the expiration of the term of his or her office. The Chair, Vice-Chair, Secretary, and Treasurer have a one-year term and may only hold the position for two consecutive terms.
- G. The Board has the authority to establish temporary task or issue related sub-committees of the Board and the sub-committees may include non-members of the Business Improvement Area provided the sub-committee is chaired by a director of the Board. A sub-committee may only be established for a period of four months. Sub-committees do not have decision making authority or authority to spend funds of the Board's annual budget, but may make recommendations to the Board in relation to their expressed mandate. Minutes must be kept for all meetings of sub-committees and forwarded to the Board for review and approval as soon as possible after each meeting.
- H. The Board shall appoint a director or Business Improvement Area staff person to be the designated contact for the Business Improvement Area and shall provide a dedicated Business Improvement Area phone number or e-mail address for this person to the Economic Development Officer for the Town, and the Town may post this contact information on its website and include it in public information materials.
- I. Directors are to be appointed in accordance with Appendix "C".

3.4 Refusal to appoint

Council may refuse to appoint to the Board an individual selected by the Members, in which case Council may leave the position vacant, appoint another person, or direct that a meeting of the Members of the Business Improvement Area or of the Board be held to elect or nominate another candidate for Council's consideration. Upon the next term of

Council, an individual previously refused by Council may have their name put forward to sit on the Board.

3.5 Elections of nominees; voter eligibility

- A. Nominees for appointment to the Board are to be elected at the Annual General Meeting held after a Council election year.
- B. All nominees shall complete and submit a request for Board appointment nomination or removal to the Board and to the Economic Development Officer within 20 days of the Annual General Meeting.
- C. Notwithstanding 3.3(B), a Member may appoint in writing only 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.
- D. Eligibility criteria for voting is set out in Appendix C.

3.6 Officers

Each Board shall elect a Chair, Vice-Chair, Secretary, and Treasurer and such other officers from its directors as the Board may deem necessary to properly conduct the business of the Board.

3.7 Board vacancies, replacements, additions

- A. Subject to section 3.4, if a Board vacancy occurs, a Member or representative of the Member may be nominated by the Board to fill the vacancy for the unexpired portion of the term. The nomination shall be brought forward to Council for consideration.
- B. Should a director fail to attend three consecutive Board meetings without being authorized to do so by resolution of the Board, the Board may consider a motion to recommend that Council remove the director from the Board.
- C. If the Board resolves to seek the removal of a director from the Board or the appointment of a replacement or additional director to the Board, it shall give to the Chief Administrative Officer a completed request for Board appointment nomination or removal form, provided by the Economic Development Officer, and signed minutes of the meeting at which the vote was held on this matter, and the Chief Administrative Officer shall report to Council.
- D. In the case of the removal of a director, notice must be provided by the Board to the director at least five Business Days in advance of the Board meeting at which the matter will be considered.

- E. During the term of the Board, a resolution requesting Council to approve an increase in the size of the Board can be adopted by the business improvement Membership at an Annual General Meeting or General Meeting, provided the proposed increase is listed in the meeting notice as an agenda item.

3.8 Meetings and Records

- A. The Board shall hold at least four meetings each year, including the Annual General Meeting to which all Members shall be invited. There shall also be at least one General Meeting in each calendar year.
- B. The Board shall notify the Economic Development Officer and Councillor(s) appointed to the Board of all Board meetings, and provide the meeting agenda, previous meeting minutes and financial statement, three Business Days in advance of the meeting.
- C. The Board shall keep proper minutes and records of every meeting of the Board, and sub-committees, and shall forward Board-approved copies of the minutes and records to all directors, the Clerk, and Economic Development Officer as soon as possible after such meetings.
- D. The Board shall comply with the meeting procedures as set out Appendix "A" to this procedure by-law.
- E. No error or accidental omission in giving notice of any meeting of the Membership shall invalidate such meeting or make void any proceedings taken at such meeting.
- F. No error or omission in giving notice of any annual or special meeting or any adjourned meeting of the Membership shall invalidate any resolution passed or any proceedings taken at any meetings of the Members.
- G. No omission to give any notice to any Member, Director or Officer, or the non-receipt of any notice by any Member, Director or Officer, no error in any notice not affecting the substance thereof shall invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

3.9 Authority of the Economic Development Officer and the Chief Administrative Officer

Both the Economic Development Officer and the Chief Administrative Officer have the authority to attend and address Board meetings, General Meetings, and Annual General Meetings, including in-camera sessions.

3.10 Quorum – Board of Management

- A. Unless Council approves an alternate quorum figure, quorum of the Board shall be half the number of directors, excluding members of Council appointed to the Board or vacant positions, rounded up to the nearest integer.
- B. Unless Council approves an alternate quorum figure, quorum shall be no less than four.
- C. No Board meetings shall occur unless Quorum is physically present in the meeting location for the entire meeting.

3.11 Annual General Meeting; notice

- A. Notice of the Annual General Meeting must include the meeting agenda, Council-approved and estimated expenditures for the current year, and proposed revenues and expenditures for the following year.
- B. The Board shall supply the Economic Development Officer with the notice of the Annual General Meeting and any accompanying materials at least 20 Business Days before the date of the Annual General Meeting.
- C. The Town shall send the notice of the Annual General Meeting at least 15 Business Days before the date of the meeting to all persons who own rateable property in a business property class within the Business Improvement Area.
- D. The Clerk shall distribute notices of the Annual General Meeting to all persons who are non-residential tenants of rateable property in a business property class in the Business Improvement Area and Council members sitting on the Board at least 15 Business Days before the date of the meeting.
- E. The Board's complete audited financial statements, with balance sheet and revenue and expenditure statements, must be made available during the Annual General Meeting notice period and at the Annual General Meeting.

3.12 Quorum - Annual General Meetings and General Meetings

No business shall be transacted at an Annual General Meeting or General Meeting unless a Quorum of the Board is present as set out in 3.10A.

3.13 Members of Council attending Annual General Meetings

- A. Members of Council who are directors of the Board cannot make motions or vote at Annual General Meetings or General Meetings, unless they are Members as defined in 1.1, but may make motions and vote at Board meetings.

3.14 Adoption of Procedure By-law and Town By-laws and Policies, and Electing Board Positions

- A. The Board shall, at its first Board meeting following its appointment by Council:
- (i) adopt and follow the Procedure By-law to conduct meetings as mandated by Council and attached as Schedule "A" to By-law 41-79 as amended;
 - (ii) adopt and follow the Town's Procurement By-law;
 - (iii) adopt and follow the Town's Employee Hiring Policy; and
 - (iv) elect its Chair, Vice-Chair, Secretary, and Treasurer and such other officers from its directors as the Board may deem necessary.
- B. Notwithstanding the Town's governance policy, which requires Council approval of all by-laws that regulate the internal conduct of the business and affairs of a Town agency, the 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 this By-law including its schedules. All policies require Council approval.

3.15 Eligibility to Vote

Requirements regarding eligibility to vote are set out in Appendix "B" to this Procedure By-law.

3.16 Notice

Any notice required to be provided by the Board shall:

- (i) be in writing;
- (ii) be hand-delivered or sent by prepaid mail;
- (iii) set out the date, time and place of the meeting; and
- (iv) include a statement of the intention of the Board.

3.17 Insurance

The Board The Board shall participate in coverage under the Town's commercial general liability insurance policies and programs.

3.18 Litigation

The Board shall notify the Town regarding any potential or actual litigation and shall keep the Town informed with respect to the progress of such matters.

3.19 Dissolution of Board

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 Town.

3.20 Liabilities upon Dissolution

If the Board is dissolved and the liabilities exceed the assets assumed by the Town, Council shall recover the difference by imposing a charge on all rateable property in the former Business Improvement Area.

ARTICLE 4 Financial Requirements

4.1 Annual budget

- A. The Board shall prepare a proposed annual budget for each fiscal year by the date and in the form required by the Chief Financial Officer, and shall hold an Annual General Meeting or General Meeting to discuss and adopt the annual budget. Reasonable notice of such a meeting shall be provided to the Membership.
- B. The Board shall submit the annual budget to the Chief Financial Officer by the date and in the form required by the Chief Financial Officer, and Council may approve it in whole or in part but may not add expenditures to it.

4.2 Financial procedures and reports

- A. The Board shall process all payments of expense and receipt of revenue through the Town. The Town Finance Department will provide monthly updates to the Treasurer of the Board in terms of the year to date revenue and expenditures.
- B. The Treasurer of the Board shall prepare and present written financial statements of expenses and revenues for the Board's review and consideration at each regular meeting based on the information provided by the Town.
- C. The Board's fiscal year is the calendar year.

4.3 Contracts

- A. All Business Improvement Area contracts are the responsibility of the Board.
- B. To enter into a contract, a resolution thereof approved by the Board shall be required to be entered in the minutes of a Board of Management meeting and a copy of the contract is to be attached to the minutes of that meeting.

- C. Once approved, a contract shall bear two (2) official signatures from the Board, one of which shall be the Chair of the Board and one shall be either the Vice-Chair, the Secretary, or the Treasurer of the Board.

4.4 Audited financial statement

The Board shall have its' revenue, expenses and the balance of reserve fund audited as part of the Town's overall yearly Financial Audit and will be included in the Town's Financial Statements as a separate note.

ARTICLE 5 Town Infrastructure

5.1 Ownership of assets

The Town is deemed to be the owner of all infrastructure installed by or on behalf of the Board.

5.2 Maintenance of assets

The Town is responsible for maintaining all infrastructure installed by or on behalf of the Board.

**APPENDIX A
BUSINESS IMPROVEMENT AREA
MEETING PROCEDURES**

1. Rules of procedure

- A. 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.
- B. The rules of procedure are to be interpreted in a manner that promotes the following fundamental principles:
 - (1) 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;
 - (2) the maintenance of decorum, with all participants being treated with courtesy and respect;
 - (3) Members have the right to information to help make decisions;
 - (4) Members have a right to an efficient meeting;
 - (5) Members have equal rights, privileges and obligations; and
 - (6) in the event of conflict, facilitating a reasonable compromise.
- C. Board members are held to the standards established in the Council, Committee and Board Code of Conduct.

2. Duties of officers

- A. The Chair shall:
 - (1) chair all meetings of the Business Improvement Area and of the Board, follow the agenda, and decide on whether motions are in order;
 - (2) rule on all procedural matters and maintain decorum;
 - (3) ensure motions and amendments are clearly expressed and, if there is no motion under consideration, summarize the discussion for the purpose of the minutes;
 - (4) along with the Secretary or Treasurer, sign all by-laws and execute any documents, contracts or agreements;
 - (5) perform any other duties which the Board may, from time to time, assign;

- (6) sit, ex officio, on all committees and sub-committees; and
- (7) ensure that all past financial records of the Board are transferred to the succeeding Treasurer when there is a change of Treasurer and administrative records are transferred to the succeeding Secretary when there is a change of Secretary.

B. 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.

C. The Secretary shall:

- (1) ensure that notice is given 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 in advance of the meeting;
- (2) ensure that the minutes of each meeting are recorded and presented at the following meeting for adoption. The minutes shall record:
 - (a) the place, date and time of meeting;
 - (b) the name of the chair;
 - (c) the names of all directors present, and those not present, at the meeting;
 - (d) the names of all others present at the meeting;
 - (e) the correction and adoption of the minutes of the prior meeting;
 - (f) all motions, decisions and other proceedings of the Board;
 - (g) any declarations of conflict of interest; and
 - (h) perform any other duties that the Board may from time to time assign;
- (3) record confidential minutes of closed sessions of the Board;
- (4) along with the chair, sign the adopted minutes and submit a copy of the to the Town Clerk;
- (5) keep or cause to be kept: the Business Improvement Area's records and books of the Business Improvement Area, including business improvement area by-laws, policies and resolutions; the registry of Officers and directors; the minutes of the Annual General Meeting, General Meetings, meetings of the Board or any committees thereof, and any committee reports;
- (6) certify copies of any record, registry, by-law, resolution or minute; and

- (7) give notice of the Annual General Meeting, General Meetings, and Board meetings.
- D. The Treasurer shall:
 - (1) under the direction of the Board, approve the expenditure of the funds of the Business Improvement Area;
 - (2) perform any other duties that the Board may from time to time assign;
 - (3) prepare and distribute the proposed annual budget in accordance with the requirements of the Town; and
 - (4) prepare and present written financial statements for the Board's review and consideration at each regular meeting based on the information provided by the Town.
- 3. 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.
- 4. Directors are entitled to submit agenda items for consideration by forwarding them to the Secretary before the agenda distribution deadline.

5. Votes

- A. Every Member 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.
- B. The members of the Board shall vote on any motion arising at any meeting of the Board. All motions must be seconded before proceeding to a vote.
- C. Motions may include:
 - (1) motion to approve or adopt an item;
 - (2) motion to receive an item;
 - (3) motion to postpone or refer an item;
 - (4) 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.
- D. A majority of votes shall decide each motion.

- E. A tie vote means a motion does not carry.
- F. Members have the right to abstain from voting.

6. Deputations

The Board may hear as per any policy established by the Board.

7. Annual General Meeting

The Annual General Meeting agenda shall include, but not be limited to:

- A. minutes of the last Annual General Meeting;
- B. declarations of conflict of interest;
- C. annual activity report of the Board;
- D. annual financial report;
- E. proposed annual budget for the following year;
- F. proposed annual work plan for the following year;
- G. election of the Board (if a municipal election year); and
- H. any other business that may properly be brought before the meeting.

8. Determination of motions

All motions arising at any meeting of the 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 Member.

The Chair shall declare that a motion has been carried or not carried. The motion shall be entered into the minutes of the business improvement area meeting. It is not necessary to record the number or the proportion of votes.

**APPENDIX B
ELIGIBILITY TO VOTE – GENERAL MEETINGS
AND ANNUAL GENERAL MEETINGS**

Property Owners

- The property is located within the Business Improvement Area boundary.
- The property is assessed in a business property class (e.g. C-Commercial; D-Office; I-Industrial; G-Parking lot etc.).

Note: This information can be found on the Notice of Assessment from the Municipal Property Assessment Corporation and the property tax bill.

- **Sole Owner of a Property** – Entitled to one vote per motion.
- **There are two or more co-owners of the property** – The co-owners must select one owner to represent and vote on their behalf (one vote per motion).
- **The property is owned by a corporation** – The corporation must appoint an employee to represent and vote on its behalf (one vote per motion).
- No person or corporation may have more than one vote, regardless of the number of properties or businesses they own, co-own, or represent.

Business Owners

- The business is located within the Business Improvement Area boundary.
- The business occupies property that is assessed in a business property class (e.g. C-Commercial; D-Office; I-Industrial; G-Parking lot etc.).
- **The business is a sole proprietorship** – The business owner is entitled to one vote per motion.
- **The business is owned by a partnership or cooperative** – The members of the partnership or cooperative must appoint one person to vote on their behalf (one vote per motion).
- **The business is owned by a corporation** – The corporation must appoint one employee to vote on its behalf (one vote per motion).
- No person or corporation may have more than one vote, regardless of the number of properties or businesses they own, co-own, or represent.

APPENDIX C ELIGIBILITY TO BE NOMINATED AS A DIRECTOR

Property Owners

- The property is located within the Business Improvement Area boundary.
- The property is assessed in a business property class (e.g. C-Commercial; D-Office; I-Industrial; G-Parking lot etc.).

Note: This information can be found on the Notice of Assessment from the Municipal Property Assessment Corporation and the property tax bill.

- **Sole Owner of a Property** – Entitled to be nominated as a Director.
- **There are two or more co-owners of the property** – The co-owners must select one owner to be entitled to be nominated as a Director.
- **The property is owned by a corporation** – The corporation must appoint an employee representative and be entitled to be nominated as a Director.
- No person or corporation may have more than one vote, regardless of the number of properties or businesses they own, co-own, or represent.

Business Owners

- The business is located within the Business Improvement Area boundary
- The business occupies property that is assessed in a business property class (e.g. C-Commercial; D-Office; I-Industrial; G-Parking lot etc.)
- **The business is a sole proprietorship** – The business owner is entitled to be nominated as a Director.
- **The business is owned by a partnership or cooperative** – The members of the partnership or cooperative must appoint one partner or member to represent and be entitled to be nominated as a Director.
- **The business is owned by a corporation** – The corporation must appoint one employee to represent and be entitled to be nominated as a Director.
- No person or corporation may have more than one Director, regardless of the number of properties or businesses they own, co-own, or represent.

APPENDIX D BUSINESS IMPROVEMENT AREA MAP

