

**City of Port Colborne
Council Meeting Agenda**

Date: Tuesday, September 5, 2023
Time: 6:30 pm
Location: Council Chambers, 3rd Floor, City Hall
66 Charlotte Street, Port Colborne

Pages

1. Call to Order

2. National Anthem

3. Land Acknowledgement

4. Adoption of Agenda

5. Disclosures of Interest

6. Staff Reports

- 6.1 Follow up Report to 2023-143- Amendments to the Discharge of
Firearms By-Law, 2023-175

This item has been deferred to the September 12, 2023, Regular Council
Meeting, at the request of staff.

- 6.2 Downtown Business Improvement Area - Operating Guidelines, 2023-
177

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7. Delegations

In order to speak at a Council meeting, individuals must register no later than 12
noon on the date of the scheduled meeting. To register, complete the online
application at www.portcolborne.ca/delegation, email
deputyclerk@portcolborne.ca or phone 905-835-2900, ext. 115.

8. By-laws

- 8.1 By-Law to Provide Procedural, Financial, Governance and Operating
Guidelines to the Downtown Business Improvement Area (BIA) Board of
Management

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8.2	By-Law to Appoint a Member to the Downtown Port Colborne Business Improvement Area (BIA) Board of Management	48
8.3	By-Law to Adopt, Ratify and Confirm the Proceedings of the Council of the Corporation of the City of Port Colborne	49

9. Procedural Motions

10. Information items

11. Adjournment



Subject: Downtown Business Improvement Area – Governance and Operating Guidelines

To: Council

From: Development and Legislative Services Department

Report Number: 2023-177

Meeting Date: September 5, 2023

Recommendation:

That Development and Legislative Services Report 2023-177 be received; and

That appointments made on February 28, 2023, to the Downtown Port Colborne Business Improvement Area Board of Management be rescinded; and

That the By-Law to appoint members to the Downtown Port Colborne Business Improvement Area Board of Management be approved; and

That the By-Law to Provide Procedural, Financial, Governance and Operating Guidelines to the Downtown Port Colborne Business Improvement Area Board of Management attached as Appendix A of Development and Legislative Services Report 2023- 177 be approved.

Purpose:

The purpose of this report is to seek Council's approval of a By-Law to Provide Procedural, Financial, Governance and Operating Guidelines to the Downtown Business Improvement Area Board of Management.

The proposed by-law provides a statement of the standards required of the Downtown Business Improvement Area (Downtown BIA) in matters of governance, accountability, and transparency as well as financial administration. It also provides the Board of the Downtown BIA with a significant degree of sovereignty through the management of its own policies while also allowing for the openness required of a public body under the municipal laws/legislations of Ontario as they stand today.

The proposed by-law provides a mechanism and structure to ensure complete public accountability and transparency as well as satisfies various requirements of the *Municipal Act, 2001*.

Background:

A Business Improvement Area (BIA) is an organized group of property owners and businesses within a specified geographic area that come together, upon approval of the municipality, to organize, finance and carry out physical improvements and promote economic development in their designated area. Each BIA has a board of management which is an organization set up to provide business promotion and improvement functions.

The Downtown Business Improvement Area (Downtown BIA) was originally created in 1978 under the authority of s.361 of the former *Municipal Act, RSO 1970, c.284* by the passage by Council of By-law No. 692/8/78, Being a By-law to Designate a Certain Area as an Improvement Area passed by Council on April 24, 1978, as approved by the Ontario Municipal Board on May 25, 1973. Since that date, there have been alterations to the area falling within the boundaries of the DBIA with the present area defined by By-law No. 5758/14/12 passed by Council on February 13, 2012.

Under the current legal framework, the Downtown BIA like all business improvement areas are authorized by the *Municipal Act, 2001*, S.O. 2001, c. 25 ("the Act"). Under section 10(2) of the Act, each municipality may pass by-laws respecting the governance structure, accountability, and transparency as well as financial management of its local boards including the boards of their respective business improvement areas.

Discussion:

It is important that the BIA board of management and the municipal council and staff work together to achieve a common goal for a strong and vibrant business community. Council and municipal staff can contribute significantly to the BIA by providing a venue for local business leaders to come together to discuss possible strategies for revitalizing the local community, providing a supportive growth management and development strategy, providing financial and technical resource assistance, and instituting public improvements. Additionally, a dedicated City staff representative to the BIA will provide procedural guidance which will ensure that the Board meetings are well organized and are in accordance with the applicable laws.

Staff have relied on the statutory authority to add to the by-law governing the Downtown BIA. The purposes of the Downtown BIA are set out in the Act which states that the Downtown BIA is to oversee the improvement, beautification and maintenance of municipally-owned land, buildings and structures beyond that provided at the expense

of the municipality generally; and to promote the area as a business or shopping area within its designated boundaries.

These purposes have been further described in the by-law to ensure that the Downtown BIA will undertake its activities in accordance with their by-law and policies, and that it will advocate for the interests of its Members. The purposes also include aligning its activities from time to time as may be required jointly with other agencies, Board and corporations within Port Colborne. The boundaries of the Downtown BIA, as described in Schedule B to the by-law, are used to determine who is a Member of the organization and where Downtown BIA activities are to be focused. These boundaries remain unchanged since last expansion was approved in 2012.

Processes for appointments to the Board as well as meetings and sub-committee structures have been provided in the by-law. They are in a simplified form and are modified to reflect that many of the structures under which the Downtown BIA operate are provided for under the *Municipal Act, 2001*. These processes have been elaborated for clarity so that Members of the Downtown BIA and Council are all clear on their respective roles.

Many of the financial obligations of the Downtown BIA are also provided for under the *Municipal Act, 2001* but they have been elaborated and harmonized with other obligations related to any local board. Additionally, to manage these obligations, all financial policies and procedures of the Downtown BIA as well as the budget are in coordination with the City's Finance staff and in the form required by the municipality. Activities in these areas will also be reported to Council through the Annual Reporting process. This process will ensure that Council remains well-informed on various activities and issues involving the Downtown BIA.

Internal Consultations:

The provisions of the by-law have been subject to discussions between the Clerk's Division staff and City's Finance staff. The matter has been discussed with Chief Administrative Officer and Economic Development and Tourism Division.

Financial Implications:

There are no financial implications.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Welcoming, Livable, Healthy Community
 - Economic Prosperity
-

Conclusion:

The proposed Port Colborne Downtown BIA By-Law, a By-law to provide Procedural, Financial, Governance and Operating Guidelines has been created through the joint efforts of various City departments. It provides in one document a high-level statement of standards required in Port Colborne Downtown BIA matters of governance, accountability and transparency as well as financial administration. It provides the Board with a significant degree of autonomy through its management of its own policies while also allowing for the openness required of a public body under the municipal laws/legislatures of Ontario.

Appendices:

- a. By- Law to appoint members to the Downtown Port Colborne Business Improvement Area Board of Management
- b. By-Law to Provide Procedural, Financial, Governance and Operating Guidelines to the Downtown Business Improvement Area Board of Management

Respectfully submitted,

Saima Tufail

Acting City Clerk

905-835-2900 x 106

saima.tufail@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final review and approval by the Chief Administrative Officer.

The Corporation of the City of Port Colborne

By-Law No. _____

Being a By-law to Appoint a Member to the Downtown Port Colborne Business Improvement Area Board of Management

Whereas the Council of The Corporation of the City of Port Colborne passed By-Law No. 692/8/78, being a By-law to Designate a Certain Area as an Improvement Area, on the 24th day of April 1978 and the said by-law received Ontario Municipal board approval on the 25th day of May, 1978;

Whereas pursuant to Section 204, Sub-section (3) of the *Municipal Act, 2001*, the Council of the Corporation of the City of Port Colborne appointed members to the Board of Management for the 2022-2026 term of Council on February 28, 2023;

Whereas the Council of the Corporation of the City of Port Colborne is desirous of amending the appointments to the Board of Management;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That the following members be appointed to the Downtown Port Colborne Business Improvement Area Board of Management for a term ending on November 14, 2026:
 - Norbert Gieger
 - Ed Cleveland
 - Rosemari Poisson
 - Larry Beverly
 - Anna Maria Crognale
 - Harry Hamilton
2. That this by-law shall come into force and take effect on the date of final passing.

Enacted and passed this 5th day of September 2023.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk

The Corporation of the City of Port Colborne

By-Law No. _____

A By-Law to Provide Procedural, Financial, Governance and Operating Guidelines to the Downtown Business Improvement Area Board of Management

Whereas Section subsection 204(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act, 2001*”), provides that a local municipality may designate an area as an improvement area and may establish a local board of management to oversee the improvement, beautification and maintenance of municipally-owned lands, buildings and structures beyond City standard levels provided at the expense of the municipality generally and to promote the area as a business and shopping area;

Whereas subsection 204(2.1) of the *Municipal Act, 2001*, provides that a board of management is a local board of the municipality for all purposes;

Whereas section 11 of the *Municipal Act, 2001* authorizes a lower-tier municipality to pass by-laws respecting the governance structure of a local board of a municipality;

Whereas it is deemed necessary to establish the mandate, composition, duties and responsibilities, practices and procedures, referred to as “Downtown Governance and Operating Guidelines” for the Downtown Business Improvement Area Board of Management;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That the Downtown Governance and Operating Guidelines for the Downtown Business Improvement Area Board of Management shall be in accordance with Schedule “A”, attached to this By-Law.
2. That in the event any By-Law conflicts with the provisions herein, this By-Law shall prevail.
3. That pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended the Clerk of the City of Port Colborne is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this By-Law or its schedules as such may be determined to be necessary after the passage of this By-Law.

Enacted and passed this 5th day of September, 2023.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk



Port Colborne Downtown BIA Procedural, Financial, Governance and Operating Guidelines

Committee: Downtown Business Improvement Area

Date Approved:

Date Revised: N/A

Approval: Council

Board Resource: Economic Development and Tourism Services Division Staff

1. Establishment

The *Municipal Act*, 2001, S.O. 2001, c.25, as amended (the "*Municipal Act*, 2001"), provides that a local municipality may designate an area as an improvement area and may establish a local board of management.

The City of Port Colborne Council has established such an area in the City of Port Colborne known as the Port Colborne Downtown Business Improvement Area ("Downtown BIA") by enacting By-law No. 692/8/78, Being a By-law to Designate a Certain Area as an Improvement Area and By-law No. 5758/14/12, Being a By-law to amend By-law No.692/8/78 to expand the Downtown Business Improvement Area.

2. Boundaries

Downtown BIA shall undertake its purposes within the boundaries as designated by Council and as described in the diagram attached hereto as Schedule "B".

2.1 The Board may recommend alteration to the boundaries of the Downtown BIA to Council, which shall consider and administer any alterations in accordance with the provisions of section 210 of the Act.

2.2 If Council alters the boundaries of the Downtown BIA, the Board will continue as the board of management for the altered area.

3. Mandate

The Downtown BIA shall carry out the activities set out in section 204(1) of the *Municipal Act, 2001* (the “Act”) and:

3.1 Provide supportive economic growth strategies through developing goals and objectives;

3.2 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;

- No project shall be undertaken, and no work shall be conducted on any municipally-owned land without notifying the City of Port Colborne’s Clerk and obtaining approval from the Clerk of the commencement of such project or work.

3.3 Promote the area as a business or shopping area through streetscaping, marketing campaigns and improving community ambiance; and

3.4 Undertake safety and security initiatives within the business improvement area.

- undertake its activities in accordance with these governance and operating guidelines and such policies as created by the Board;
- advocate for the interests of its Members; and
- jointly align its activities from time to time as may be required with other agencies, board and corporations within Port Colborne.

4. Membership Composition

The Board shall be composed of a minimum of seven (7) to a maximum of twelve (12) Directors as follows:

4.1 One non-voting member of Council shall be appointed to fulfill the responsibility of acting as a liaison between Council and the Board; respond to Board members’ questions; interpret Council’s direction to the Board; and provide updates on Board activities to Council.

4.2 The remaining members shall be individuals assessed for business assessment in respect of lands in the area or nominees of such individuals or of the corporations assessed.

- Council shall consider the nominees for appointment as Director as named under section 4.2 of this by-law but, in accordance with section 204(9) of the Act, Council may refuse to appoint a person so selected by the Members. Where Council refuses to appoint such person, Council may (i) leave the position vacant, (ii) direct that a meeting of the Members be held to elect, or (iii) ask the Board to select another candidate for consideration and approval by Council. An election to fill a vacancy shall be held by a vote of the Members unless a nominee is selected by Council upon the recommendation of by the Board.

4.3 The remaining positions include but are not limited to: Chair, Vice-chair, Secretary, and Treasurer.

4.4 One non-voting member of City of Port Colborne staff shall act as a representative, resource person and a recording secretary. Additional members of staff may be called on for specific subject matter expertise or as a Board resource, and they shall serve as non-voting support.

5. Term

The term of the Directors is the same as the term of the Council in office at the time of their appointment.

5.1 Each Director shall hold office for the time of his or her appointment until a successor is appointed by Council, provided that the Director continues to be qualified.

5.2 Each Director is eligible for reappointment on the expiration of the term. (Section 204(11) of the *Municipal Act*).

6. Membership Eligibility

6.1 Members of the Downtown BIA shall comprise 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 any eligible tenants of such property.

6.2 In determining whether a person is a tenant or not, the City Clerk may accept a list provided under clause 210(2)(b) of the Act or a declaration of a person that the person is a tenant. The determination of the Clerk is final.

6.3. Every Member is entitled to:

- attend any annual or general meeting of the Downtown BIA; and
- vote on each question arising at any annual or general meeting of the Downtown BIA.

7. Nomination of Directors – Sub-Committee

7.1 During a year in which the term of the Directors is ending, the Board shall establish a nominations sub-committee and provide notice to its Members which shall include:

- the form and content in which applications will be accepted including requiring the name and signature of the nominee; and
- the date of the close of nominations.

7.2 For greater clarity, the notice provided in section 7.1 shall be made at least thirty (30) days in advance of the close of nominations.

7.3. The nominations sub-committee shall accept all eligible applications and prepare a list of submitted applications to be selected by the membership.

7.4 A Member may appoint 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.

7.5. Upon receiving all nominations from the nominations sub-committee, the executive director and/or a member of the nominations sub-committee shall prepare a ballot listing all candidates in alphabetical order. A ballot and instructions respecting the vote, including the date and time of the annual general meeting and where the vote will take place, shall be delivered to each Member within ten (10) days of the close of nominations.

7.6 Within three (3) business days of the annual general meeting where the vote took place, the executive director and/or at least two members of the nominations sub-committee shall open the ballot box and count all ballots cast to determine who has been selected as a Director of the Board. Each nominee has the ability to appoint one (1) scrutineer to be present during the ballot count.

7.7 The Directors selected by the membership shall be memorialized by way of a board resolution. If the number of nominees on the ballot is equal to or less than the number of Directors, the membership is permitted to select in accordance with section 6.1, the Board shall pass a resolution to memorialize the selected candidates.

8. Notice to the Clerk

The names of the nominees who have been elected shall be forwarded to the Clerk by no later than November 10 of the year of election, unless otherwise directed by the Clerk.

9. Appointment of Directors

9.1 At its inaugural meeting following the municipal election, Council shall appoint one (1) member of Council to the Board.

9.2 The Board shall present a list of elected nominees for Council approval.

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

10. Removals and Vacancies

10.1 The seat of a Director of the Board become vacant when:

- A Director is absent from Board meetings for three (3) consecutive regular scheduled meetings without reasonable cause. Upon the Director failing to attend two (2) consecutive meetings without reasonable cause, the Board of Management shall send a by pre-paid mail and email, a notice to the Director advising that upon the third (3rd) failure to attend, the Board shall recommend to the Municipality that such Director be removed from the Board of Management.
- Any Director wishing a leave of absence from the Board of Management must give notice in writing stating the date he/she intends to resume board duties. During this leave of absence, the position shall remain vacant for purposes of quorum. Resumption of duties must be anticipated within one (1) year; otherwise a notice of resignation shall be given.
- Board members may resign by resignation in writing to the Board of Management (copied to the City Clerk) that shall be effective upon any time or date requested.

10.2 In the event of a vacancy occurring on the Board of Management:

- The remaining Directors may nominate for the Municipality's consideration and appointment an individual for Directorship to fill the vacancy for the remaining portion of the term of office.
- In the event that the remaining Directors no longer constitute a quorum, a meeting of the Members shall be called by the remaining Directors for the purpose of nominating an individual for Directorship for consideration and appointment by the Municipality.
- The Board of Management shall notify the City Clerk as soon as any vacancy occurs and when the remaining Directors or Members have a nomination for appointment to the Board of Management by the Municipality.

10.3. Council may remove any Director before the expiration of the term of office and fill the vacancy of a position of Director caused by any reason for the remainder of such term. The appointed person is not required to be a Member.

10.4 If during the term of office, a Director who was nominated by the membership is no longer a Member, the Board shall adopt a motion at the next scheduled meeting requesting Council to remove the Director or appoint a new Director or allow the Director to serve out the remainder of their term.

10.5 If the Board resolves to seek the removal of a Director and/or the appointment of a replacement or additional Director, it shall:

- provide notice to the Director that is the subject of the removal or appointment at least seven (7) days in advance of the board meeting at which the matter will be considered;
- hold a vote at the board meeting; and
- provide a letter to the City Clerk along with the relevant board resolution and signed minutes of the meeting at which the vote was held in order for Council to confirm, deny or alter the decision of the Board as set out in the board resolution.

10.6 At no point shall the Board be comprised of three (3) or fewer voting Directors, and in the event such an instance occurs, the Board shall advertise for applications or appoint a person to fill the vacancy for the unexpired portion of the term.

11. Role of Directors

11.1 All Directors shall have only one (1) vote at a meeting of the Board.

11.2 Each Director shall comply with all applicable laws and City policies including but not limited to the *Municipal Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, *Municipal Conflict of Interest Act* and the City's Code of Conduct for City Councillors and Members of Boards, Commissions and Committees.

11.3 The Board shall adopt policies pertaining to the sale and other disposition of land, the procurement of goods and services and the hiring of employees, as required under the Act.

11.4 A Director shall notify the recording secretary at least twenty-four (24) hours prior to the commencement of a Meeting when the Director is aware that he or she will be absent from a Meeting.

11.5 Every Director shall:

- be accountable to the general membership;
- exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the Downtown BIA;
- exercise the degree of care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances; and
- comply with the decisions of the Board.

11.6 In the event that the Chair and the Vice-Chair are absent or unable to act, Directors who are present shall choose one of the Directors to chair the meeting.

12. Officers

12.1 The Board shall elect a Chair, Vice-chair, Secretary and Treasurer from its Directors and such other officers, as it may deem necessary and as are lawfully authorized, to properly conduct the business of the Board.

12.2 The Board shall appoint a Director to be the designated contact for the Downtown BIA and provide the City staff representative with the person's contact information including phone number and email address.

13. Role of the Chair

13.1 The Chair shall be elected by a majority of the Board.

13.2 The Chair shall preside over meetings of the Board, when present in person and able.

13.3 The Chair shall ensure that decorum is maintained at each meeting by adopting either the City's Procedural By-law or procedures adopted by the Downtown BIA Board, subject to the approval of such procedures by the City Clerk.

13.4 The Chair shall have general supervision and lead the general management and direction, subject to the authority of the Board, of the business and affairs of the BIA.

13.6 The Chair shall be the only spokesperson authorized to speak publicly for the BIA, unless otherwise directed.

14. Role of the Vice-Chair

14.1 The Vice-Chair shall be elected by a majority of the Board.

14.2 The Vice-Chair acts in the Chair's absence and assumes the role and responsibilities of the Chair.

14.3 In the absence of both the Chair and the Vice-Chair, the remaining members of the Board shall appoint a member as acting Chair for the purposes of that meeting.

15. Role of the Executive Director

15.1 The Board may hire an executive director.

15.2 The executive director shall not be a Director or a Member of the Downtown BIA.

15.3 The executive director shall attend all board, committee and annual or general meetings and be entitled to speak on all matters without the right to vote.

15.4 The Board shall establish the remuneration of the executive director through a resolution of the Board.

15.5 The Board shall annually carry out a formal and written evaluation of the position of the executive director which shall be made available to the City staff representative upon request.

16. Role of the Treasurer

16.1 To prepare a proposed budget for each fiscal year in the form required by the City Treasurer.

16.2 To provide to the City Treasurer such books, records and financial information as the City Treasurer or such other persons may require in the City Treasurer's sole discretion.

17. Role of the City Staff Representative

A City of Port Colborne staff representative shall be provided to the Board to act as a resource person and recording secretary between the BIA and the City.

17.1 The City staff representative shall provide updates to the Board on City initiatives or projects of municipal significance and assist with responding to Downtown BIA requests and inquiries.

17.2 The City staff representative shall:

- provide the City Clerk with the dates of all Regular Board Meetings for each calendar year prior to the end of the previous calendar year;
- report all changes to the Board of Management to the Clerk;
- be a non-voting member;
- attend all Board Meetings to record and sign the minutes of each Meeting and by-laws of the Board of Management;
- keep all minutes and all books, papers and documents used in and pertaining to the business of the Board of Management and collect, use and disclose records only in accordance with the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56* in consultation with the Clerk;
- have the ability to attend and address any matter at a board meeting, committee meeting or at an annual or general meeting;
- assign an alternate to attend in their place any board meeting, committee meeting, or annual or general; and
- provide high-level administrative, procedural, and technical support to the Board.

17.3 The Board shall provide the City staff representative, upon request, with all Board policies and updates to its governance and operating guidelines and other relevant documents.

18. Regular Board Meetings

18.1 The Board shall hold a minimum of four (4) meetings in each calendar year. At the first regular meeting of the new term, a meeting schedule will be adopted by the Board.

18.2 Notice of BIA Meetings shall be given on the Municipal website in accordance with the City's procedural by-law.

18.3 Meetings will be held on a set day and time as may be determined by the Board or at the call of the Chair. The Board will establish a meeting schedule, taking into account the business needs and the schedule of Council.

18.4 Board meetings may be formally called in writing by the Chair of the Board or the Vice-Chair on the direction of two Directors.

18.5 The Chair shall preside over meetings of the Board. The Vice-Chair shall preside over meetings of the Board if the Chair is absent or unable to act. In the event that the Chair and the Vice-Chair are absent or unable to act, the Directors who are present shall choose one of the Directors to chair the meeting.

18.6 Requests to delegate regarding an item on the Board meeting agenda shall be submitted in writing to the City staff representative by 12 p.m. on the day of the meeting.

18.7 Any person, group of persons, or organization may request to speak to an item listed on the agenda provided that the subject matter of the delegation directly relates to the item on the agenda. All requests to delegate shall be made in writing to the Clerk, outlining the nature of their request, and include any additional material (i.e. PowerPoint) by the deadline stated in section 18.6.

19. Closed Meetings

19.1 All meetings of the Board shall be open to the public, except when considering items in accordance with the criteria for a Closed Meeting as established by section 239 of the Act as follows:

- The security of property of the BIA;

- Personal matters about an identifiable individual, including an employee of the BIA;
- A proposed or pending acquisition of land by the BIA;
- Labour relations or employee negotiations;
- Litigation or potential litigation, including matters before administrative tribunals, affecting the BIA;
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- A matter in respect of which the Board may hold a closed meeting under a statute of Ontario;
- Information explicitly supplied in confidence to the Board of Management by Canada, a province or territory or a Crown agency of any of them;
- A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Board of Management, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- A trade secret or scientific, technical, commercial or financial information that belongs to the Board of Management and has monetary value or potential monetary value; or
- A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Board of Management.

19.2 In addition to the situations set out in section 19.1, a meeting may be closed to the public if the following conditions are both met:

- The meeting is held for the purpose of educating or training the Board members; and
- At the meeting, no Board Member discusses or otherwise deals with any matter in a way that materially advances the business of decision-making of the Board.

19.3 Before holding a meeting or part of a meeting that is to be closed to the public, the Board shall state by motion:

- The fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or

- In the case of a meeting closed under section 19.2, the fact of the holding of the closed meeting, the general nature of its subject matter and that it is to be closed under that section.

19.4 Subject to section 19.5, a meeting shall not be closed to the public during the taking of a vote.

19.5 A meeting may be closed to public during a vote if,

- Section 19.1 or 19.2 permits or requires the meeting to be closed to the public; or
- The vote for a procedural matter or for giving directions or instructions to officers, employees or agents of the BIA or a committee, sub-committee or persons retained under a contract with the BIA.

19.6 Matters arising at any meeting of the Board shall be decided by a majority vote. The Chair shall vote only in the event of a tie vote.

19.7 Notwithstanding section 19.6, a Director may request a recorded vote respecting any matter to be decided by the Board. In such event, the Chair votes and if the vote is a tie, the resolution is lost.

19.8 The Clerk shall advise as to whether matters may be discussed in the Closed Meeting. Written reports and presentations shall be reviewed in advance by the Clerk for the purpose of determining of whether a matter may be discussed in the Closed Meeting.

19.9 Closed Meetings shall not be recorded by any audio or video recording device.

20. Inaugural Meetings

20.1 The Inaugural Meeting shall be held within thirty (30) days from the date upon which the Directors are appointed by Council.

20.2 The Directors shall elect Officers from among themselves at the Inaugural Meeting.

20.3 The City staff representative shall call the Inaugural Meeting to order and chair the meeting until the Chair has been elected. The Chair shall then assume his or her duties as such.

21. Special Meetings

21.1 Subject to the notice provisions contained in section 18.2, a Special Meeting may be called as follows:

- by the Chair by providing direction to the recording secretary in writing stating the date, time and purpose for the Meeting; or
- by a majority of Directors by providing a written petition to the Secretary stating the date, time and purpose for the Special Meeting.

21.2 Only business dealing directly with the purpose mentioned in the notice shall be transacted at any Special Meeting.

21.3 Special Meetings should only be called when business cannot wait until the next regularly scheduled meeting in order to promote transparency.

22. Electronic Meetings

22.1 A Director may participate by electronic means in an electronic meeting.

22.2 The Secretary, in consultation with the Chair, may determine the method and technology to be used for electronic meetings based on the resources available.

22.3 Where the Rules of Procedure conflict with the need to facilitate an electronic meeting, the City staff representative, in consultation with the Chair, shall have the authority to modify the Rules of Procedure to ensure Directors, Members, Delegations and the public, as the case, may be able to effectively participate in the Electronic Meeting.

23. Annual General Meeting

23.1 The Board shall hold a general meeting annually for the purpose of presenting the budget. Annual General Meeting financial statements for the previous year and proposed budgets for the next calendar year must be presented and approved by a majority of the membership present, after which time the figures will be put before Council and the levy requested.

23.2 For greater clarity, the general meeting shall include:

- declarations of conflict of interest;
- annual budget and annual report including the audited financial statements;

- selection of directors (subject to the approval of Council) in an election year;
- new policies adopted or changes made to the governance and operating guidelines;
- minutes of the last annual general meeting; and
- any other business that may properly be brought before the meeting.

23.3 The location of the meetings will be set by the Board.

23.4 The BIA Membership, the Councillor appointed to the Board and the City staff representative shall receive written notice of the Annual General Meeting not less than ten (10) days prior to the meeting date and must be posted on the City's website.

- The accidental omission to give notice to any member, Board member officer or auditor shall not invalidate any action taken at any meeting pursuant to such notice.

23.5 Notice for annual or general meetings shall include the agenda, budget and financial statements (where applicable) and minutes from the previous meeting.

24. Quorum

24.1 Quorum of the Board shall be the majority of Directors.

24.2 No business shall be transacted at a meeting of the Board unless quorum is present.

24.3 There shall be no proxy voting of any kind at meetings of the Board or committees established by the Board.

24.4 The recording secretary shall record in the minutes those Directors who were present and those Directors absent from any Meeting for the purposes of determining Quorum.

24.5 The Board may establish a policy or amend its governance and operating guidelines to establish rules around quorum and proxy voting for Members at annual and/or general meetings.

24.6 If a quorum is not present within fifteen (15) minutes of the time fixed for the commencement of the meeting, the Board may proceed without a quorum, provided that at least three Members are present. The recording secretary is not required to be present and no motions will be passed or minutes prepared.

24.7 When a majority of Directors have disclosed an interest under the *Municipal Conflict of Interest Act*, the remaining Directors at that meeting shall be deemed to constitute the Quorum, provided such number is not less than two (2).

25. Voting

25.1 Each Member has only one (1) vote regardless of the number of properties that the Member may own or lease in the Downtown BIA.

25.2 A corporate Member may nominate in writing one (1) individual to vote on behalf of the corporation.

25.3 One (1) individual may be nominated by two (2) or more corporations that are Members.

25.4 A majority of the Members present at an annual or general meeting shall carry a vote.

26. Minutes

26.1 The recording secretary shall record the proceedings, including procedural motions and direction given, without note or comment.

26.2 The minutes prepared by the recording secretary and approved by the Board of Management are the official record of the Meeting proceedings.

26.3 The recording secretary shall provide copies of all minutes to the City Clerk within ten (10) days after their approval by the Board.

27. Sub-Committees

27.1 The Board may establish sub-committees which may include non-members provided that a sub-committee is chaired by a Director.

27.2 Sub-committees will be instructed to research items or issues and make recommendations for action to the Board, submitted in a written final report that is to be delivered by an established date. The Board is not required to follow the recommendations of the sub-committee.

27.3 Sub-committees will set their own meeting and operational schedule in order to fulfill the tasks set out for the sub-committee by the Board.

27.4 Sub-committees shall not have the authority to enter into a contract on behalf of the Port Colborne Downtown BIA or commit it to any financial obligations or liability.

27.5 Committees shall be structured so that the number of the committee members is less than a quorum of the Board.

28. Complaint Process

The Board shall adopt a policy within the First Term which establishes a complaint process and disciplinary measures related to the nomination and selection of Directors. This policy will require the Board to hire an impartial investigator and allow Members to bring forward a complaint to the impartial investigator. Any disciplinary recommendation from the investigator shall be made available to the Board and City staff representative. For greater clarity, the impartial investigator cannot be a Director or member of the Port Colborne Downtown BIA, and the policy will not be applicable to the nomination and selection of Directors for the first term.

29. Conflict of Interest

Directors are considered a member for the purpose of the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*, and as such, are required to adhere to the provisions of that Act. It is the responsibility of each member to identify and disclose a pecuniary interest on any item or matter which is the subject of consideration at the meeting in accordance with the *Municipal Conflict of Interest Act, R.S.O.1990, c.M. 50*.

Where a Member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting at which the matter is the subject of consideration, the Member will, in accordance with *Municipal Conflict of Interest Act, R.S.O.1990, c.M. 50 (5)*:

- file a written statement of the interest and its general nature with the Clerk prior to the meeting;
- not take part in the discussion of, or vote on any question with respect to, the matter; and
- not attempt in any way before, during and/or after the meeting to influence the vote on the matter.

Where a meeting is not open to the public, in addition to complying with the requirements under the *Municipal Conflict of Interest Act*, the Member will forthwith leave the meeting for the part during which the matter is under consideration.

The Clerk will record the particulars of any disclosure of pecuniary interest made by Members of the Board in the minutes of that meeting and update the Pecuniary Interest Registry. The Registry will be available for public inspection.

30. Financial Procedures and Reports

30.1 The Board shall prepare a proposed annual budget for each fiscal year by the date and in the form required by the City Treasurer and shall hold one or more meetings of the Members for discussion and approval of the annual budget.

30.2 The Board shall submit the approved annual budget to Council by the date and in the form required by the City Treasurer, and Council may approve it in whole or in part but may not add expenditures to it.

30.3 The Board shall adopt and maintain only banking arrangements, bookkeeping services and sound business practices that are satisfactory to the City Treasurer, and the Board shall keep financial records and submit statements in accordance with generally accepted accounting principles.

30.4 The Board shall establish at least one bank account specific to the Downtown BIA and the Board shall appoint at least two Directors (not including a member who is also a member of Council) with signing authority to the account. Cheques issued by the Board shall be signed by two Directors with signing authority.

30.5 All monies spent from the bank account(s) outlined in section 30.4 shall be within the budgeted provisions of the approved annual budget and spent only for the benefit of the Members' businesses.

30.6 The Board shall review and submit on a tri-annual basis by the date and in the form required by City Treasurer, a financial report that compares budget to actual with commentary on progress and differences and a financial summary of cash, accounts receivable and accounts payable.

31. Audit

The Board may be required to submit, at any time during the fiscal year, its books, records and financial information to the City Treasurer upon request.

The accounts and transactions of the Board shall be audited by the Municipal Auditor in the same manner as the accounts and transactions of the City, and all minutes, books, records, documents, transactions, accounts and vouchers of the Board shall be open to the Municipal Auditor for inspection at all times.

32. Prohibition on Borrowing

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

33. Contracts

33.1 To enter into a contract, a resolution approved by the Board shall be required to be entered into the minutes of a board meeting and a copy of the contract is to be attached to the minutes of that meeting and provided to the City staff representative.

33.2 Once approved by resolution, a contract shall bear the signatures of two (2) Directors.

34. Procedures and Policies

Procedures for the proceedings of meetings shall be governed by the City's Procedural By-law and Robert's Rules of Order.

34.1 In accordance with subsection 270(2) of the *Municipal Act, 2001*, the Board shall adopt and maintain procurement policies. The City's Purchasing Policy may be used and adopted by the Board for its use, or it may adopt its own Purchasing Policy subject to approval of the Treasurer.

34.2 If required, the Board shall adopt and maintain a policy respecting "its sale and other disposition of land" and "its hiring of employees" in accordance with subsection 270(2) of the *Municipal Act, 2001*.

35. Remuneration

Board Members shall serve without remuneration, either directly or indirectly, for services rendered as a Board Member, but may be reimbursed for out-of-pocket expenses incurred while representing the BIA, upon approval of the Board.

36. Annual Workplan

An annual workplan with an estimate of the resources necessary for the coming year shall be prepared by the Board.

37. Governance and Operating Guidelines

These governance and operating guidelines set out the mandate and operation of the Port Colborne Downtown Business Improvement Area Board. These rules and procedures are to be observed at meetings of the general membership, the Board and (sub) committees of the Board. The Board shall operate in conformity with the provisions of the *Municipal Act* and the City's By-laws. The Board may make additions to its governance and operating guidelines provided that any additions are not in conflict with and do not undermine the intent of these governance and operating guidelines.

38. Resources

- 38.1 By-law to Govern the Proceedings of Council and Committee Meetings
- 38.2 *Municipal Act, 2001*
- 38.3 Code of Conduct
- 38.4 Appointment to Boards/Committees Policy
- 38.5 *Conflict of Interest Act*
- 38.6 Robert's Rules of Order
- 38.7 *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA)



Schedule "B" to Port Colborne Downtown
BIA Procedural, Financial, Governance
and Operating Guidelines

No.: _____



Downtown Business
Improvement Area



NOT TO SCALE

NOT A SURVEY

February 1, 2012

Drawn By: L Richardson

The Corporation of the City of Port Colborne

By-Law No. _____

A By-Law to Provide Procedural, Financial, Governance and Operating Guidelines to the Downtown Business Improvement Area Board of Management

Whereas Section subsection 204(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the “*Municipal Act, 2001*”), provides that a local municipality may designate an area as an improvement area and may establish a local board of management to oversee the improvement, beautification and maintenance of municipally-owned lands, buildings and structures beyond City standard levels provided at the expense of the municipality generally and to promote the area as a business and shopping area;

Whereas subsection 204(2.1) of the *Municipal Act, 2001*, provides that a board of management is a local board of the municipality for all purposes;

Whereas section 11 of the *Municipal Act, 2001* authorizes a lower-tier municipality to pass by-laws respecting the governance structure of a local board of a municipality;

Whereas it is deemed necessary to establish the mandate, composition, duties and responsibilities, practices and procedures, referred to as “Downtown Governance and Operating Guidelines” for the Downtown Business Improvement Area Board of Management;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That the Downtown Governance and Operating Guidelines for the Downtown Business Improvement Area Board of Management shall be in accordance with Schedule “A”, attached to this By-Law.
2. That in the event any By-Law conflicts with the provisions herein, this By-Law shall prevail.
3. That pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended the Clerk of the City of Port Colborne is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this By-Law or its schedules as such may be determined to be necessary after the passage of this By-Law.

Enacted and passed this 5th day of September, 2023.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk



Port Colborne Downtown BIA Procedural, Financial, Governance and Operating Guidelines

Committee: Downtown Business Improvement Area

Date Approved:

Date Revised: N/A

Approval: Council

Board Resource: Economic Development and Tourism Services Division Staff

1. Establishment

The *Municipal Act*, 2001, S.O. 2001, c.25, as amended (the "*Municipal Act*, 2001"), provides that a local municipality may designate an area as an improvement area and may establish a local board of management.

The City of Port Colborne Council has established such an area in the City of Port Colborne known as the Port Colborne Downtown Business Improvement Area ("Downtown BIA") by enacting By-law No. 692/8/78, Being a By-law to Designate a Certain Area as an Improvement Area and By-law No. 5758/14/12, Being a By-law to amend By-law No.692/8/78 to expand the Downtown Business Improvement Area.

2. Boundaries

Downtown BIA shall undertake its purposes within the boundaries as designated by Council and as described in the diagram attached hereto as Schedule "B".

2.1 The Board may recommend alteration to the boundaries of the Downtown BIA to Council, which shall consider and administer any alterations in accordance with the provisions of section 210 of the Act.

2.2 If Council alters the boundaries of the Downtown BIA, the Board will continue as the board of management for the altered area.

3. Mandate

The Downtown BIA shall carry out the activities set out in section 204(1) of the *Municipal Act, 2001* (the “Act”) and:

3.1 Provide supportive economic growth strategies through developing goals and objectives;

3.2 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;

- No project shall be undertaken, and no work shall be conducted on any municipally-owned land without notifying the City of Port Colborne’s Clerk and obtaining approval from the Clerk of the commencement of such project or work.

3.3 Promote the area as a business or shopping area through streetscaping, marketing campaigns and improving community ambiance; and

3.4 Undertake safety and security initiatives within the business improvement area.

- undertake its activities in accordance with these governance and operating guidelines and such policies as created by the Board;
- advocate for the interests of its Members; and
- jointly align its activities from time to time as may be required with other agencies, board and corporations within Port Colborne.

4. Membership Composition

The Board shall be composed of a minimum of seven (7) to a maximum of twelve (12) Directors as follows:

4.1 One non-voting member of Council shall be appointed to fulfill the responsibility of acting as a liaison between Council and the Board; respond to Board members’ questions; interpret Council’s direction to the Board; and provide updates on Board activities to Council.

4.2 The remaining members shall be individuals assessed for business assessment in respect of lands in the area or nominees of such individuals or of the corporations assessed.

- Council shall consider the nominees for appointment as Director as named under section 4.2 of this by-law but, in accordance with section 204(9) of the Act, Council may refuse to appoint a person so selected by the Members. Where Council refuses to appoint such person, Council may (i) leave the position vacant, (ii) direct that a meeting of the Members be held to elect, or (iii) ask the Board to select another candidate for consideration and approval by Council. An election to fill a vacancy shall be held by a vote of the Members unless a nominee is selected by Council upon the recommendation of by the Board.

4.3 The remaining positions include but are not limited to: Chair, Vice-chair, Secretary, and Treasurer.

4.4 One non-voting member of City of Port Colborne staff shall act as a representative, resource person and a recording secretary. Additional members of staff may be called on for specific subject matter expertise or as a Board resource, and they shall serve as non-voting support.

5. Term

The term of the Directors is the same as the term of the Council in office at the time of their appointment.

5.1 Each Director shall hold office for the time of his or her appointment until a successor is appointed by Council, provided that the Director continues to be qualified.

5.2 Each Director is eligible for reappointment on the expiration of the term. (Section 204(11) of the *Municipal Act*).

6. Membership Eligibility

6.1 Members of the Downtown BIA shall comprise 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 any eligible tenants of such property.

6.2 In determining whether a person is a tenant or not, the City Clerk may accept a list provided under clause 210(2)(b) of the Act or a declaration of a person that the person is a tenant. The determination of the Clerk is final.

6.3. Every Member is entitled to:

- attend any annual or general meeting of the Downtown BIA; and
- vote on each question arising at any annual or general meeting of the Downtown BIA.

7. Nomination of Directors – Sub-Committee

7.1 During a year in which the term of the Directors is ending, the Board shall establish a nominations sub-committee and provide notice to its Members which shall include:

- the form and content in which applications will be accepted including requiring the name and signature of the nominee; and
- the date of the close of nominations.

7.2 For greater clarity, the notice provided in section 7.1 shall be made at least thirty (30) days in advance of the close of nominations.

7.3. The nominations sub-committee shall accept all eligible applications and prepare a list of submitted applications to be selected by the membership.

7.4 A Member may appoint 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.

7.5. Upon receiving all nominations from the nominations sub-committee, the executive director and/or a member of the nominations sub-committee shall prepare a ballot listing all candidates in alphabetical order. A ballot and instructions respecting the vote, including the date and time of the annual general meeting and where the vote will take place, shall be delivered to each Member within ten (10) days of the close of nominations.

7.6 Within three (3) business days of the annual general meeting where the vote took place, the executive director and/or at least two members of the nominations sub-committee shall open the ballot box and count all ballots cast to determine who has been selected as a Director of the Board. Each nominee has the ability to appoint one (1) scrutineer to be present during the ballot count.

7.7 The Directors selected by the membership shall be memorialized by way of a board resolution. If the number of nominees on the ballot is equal to or less than the number of Directors, the membership is permitted to select in accordance with section 6.1, the Board shall pass a resolution to memorialize the selected candidates.

8. Notice to the Clerk

The names of the nominees who have been elected shall be forwarded to the Clerk by no later than November 10 of the year of election, unless otherwise directed by the Clerk.

9. Appointment of Directors

9.1 At its inaugural meeting following the municipal election, Council shall appoint one (1) member of Council to the Board.

9.2 The Board shall present a list of elected nominees for Council approval.

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

10. Removals and Vacancies

10.1 The seat of a Director of the Board become vacant when:

- A Director is absent from Board meetings for three (3) consecutive regular scheduled meetings without reasonable cause. Upon the Director failing to attend two (2) consecutive meetings without reasonable cause, the Board of Management shall send a by pre-paid mail and email, a notice to the Director advising that upon the third (3rd) failure to attend, the Board shall recommend to the Municipality that such Director be removed from the Board of Management.
- Any Director wishing a leave of absence from the Board of Management must give notice in writing stating the date he/she intends to resume board duties. During this leave of absence, the position shall remain vacant for purposes of quorum. Resumption of duties must be anticipated within one (1) year; otherwise a notice of resignation shall be given.
- Board members may resign by resignation in writing to the Board of Management (copied to the City Clerk) that shall be effective upon any time or date requested.

10.2 In the event of a vacancy occurring on the Board of Management:

- The remaining Directors may nominate for the Municipality's consideration and appointment an individual for Directorship to fill the vacancy for the remaining portion of the term of office.
- In the event that the remaining Directors no longer constitute a quorum, a meeting of the Members shall be called by the remaining Directors for the purpose of nominating an individual for Directorship for consideration and appointment by the Municipality.
- The Board of Management shall notify the City Clerk as soon as any vacancy occurs and when the remaining Directors or Members have a nomination for appointment to the Board of Management by the Municipality.

10.3. Council may remove any Director before the expiration of the term of office and fill the vacancy of a position of Director caused by any reason for the remainder of such term. The appointed person is not required to be a Member.

10.4 If during the term of office, a Director who was nominated by the membership is no longer a Member, the Board shall adopt a motion at the next scheduled meeting requesting Council to remove the Director or appoint a new Director or allow the Director to serve out the remainder of their term.

10.5 If the Board resolves to seek the removal of a Director and/or the appointment of a replacement or additional Director, it shall:

- provide notice to the Director that is the subject of the removal or appointment at least seven (7) days in advance of the board meeting at which the matter will be considered;
- hold a vote at the board meeting; and
- provide a letter to the City Clerk along with the relevant board resolution and signed minutes of the meeting at which the vote was held in order for Council to confirm, deny or alter the decision of the Board as set out in the board resolution.

10.6 At no point shall the Board be comprised of three (3) or fewer voting Directors, and in the event such an instance occurs, the Board shall advertise for applications or appoint a person to fill the vacancy for the unexpired portion of the term.

11. Role of Directors

11.1 All Directors shall have only one (1) vote at a meeting of the Board.

11.2 Each Director shall comply with all applicable laws and City policies including but not limited to the *Municipal Act*, the *Municipal Freedom of Information and Protection of Privacy Act*, *Municipal Conflict of Interest Act* and the City's Code of Conduct for City Councillors and Members of Boards, Commissions and Committees.

11.3 The Board shall adopt policies pertaining to the sale and other disposition of land, the procurement of goods and services and the hiring of employees, as required under the Act.

11.4 A Director shall notify the recording secretary at least twenty-four (24) hours prior to the commencement of a Meeting when the Director is aware that he or she will be absent from a Meeting.

11.5 Every Director shall:

- be accountable to the general membership;
- exercise the powers and discharge the duties of the office honestly, in good faith, and in the best interests of the Downtown BIA;
- exercise the degree of care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances; and
- comply with the decisions of the Board.

11.6 In the event that the Chair and the Vice-Chair are absent or unable to act, Directors who are present shall choose one of the Directors to chair the meeting.

12. Officers

12.1 The Board shall elect a Chair, Vice-chair, Secretary and Treasurer from its Directors and such other officers, as it may deem necessary and as are lawfully authorized, to properly conduct the business of the Board.

12.2 The Board shall appoint a Director to be the designated contact for the Downtown BIA and provide the City staff representative with the person's contact information including phone number and email address.

13. Role of the Chair

13.1 The Chair shall be elected by a majority of the Board.

13.2 The Chair shall preside over meetings of the Board, when present in person and able.

13.3 The Chair shall ensure that decorum is maintained at each meeting by adopting either the City's Procedural By-law or procedures adopted by the Downtown BIA Board, subject to the approval of such procedures by the City Clerk.

13.4 The Chair shall have general supervision and lead the general management and direction, subject to the authority of the Board, of the business and affairs of the BIA.

13.6 The Chair shall be the only spokesperson authorized to speak publicly for the BIA, unless otherwise directed.

14. Role of the Vice-Chair

14.1 The Vice-Chair shall be elected by a majority of the Board.

14.2 The Vice-Chair acts in the Chair's absence and assumes the role and responsibilities of the Chair.

14.3 In the absence of both the Chair and the Vice-Chair, the remaining members of the Board shall appoint a member as acting Chair for the purposes of that meeting.

15. Role of the Executive Director

15.1 The Board may hire an executive director.

15.2 The executive director shall not be a Director or a Member of the Downtown BIA.

15.3 The executive director shall attend all board, committee and annual or general meetings and be entitled to speak on all matters without the right to vote.

15.4 The Board shall establish the remuneration of the executive director through a resolution of the Board.

15.5 The Board shall annually carry out a formal and written evaluation of the position of the executive director which shall be made available to the City staff representative upon request.

16. Role of the Treasurer

16.1 To prepare a proposed budget for each fiscal year in the form required by the City Treasurer.

16.2 To provide to the City Treasurer such books, records and financial information as the City Treasurer or such other persons may require in the City Treasurer's sole discretion.

17. Role of the City Staff Representative

A City of Port Colborne staff representative shall be provided to the Board to act as a resource person and recording secretary between the BIA and the City.

17.1 The City staff representative shall provide updates to the Board on City initiatives or projects of municipal significance and assist with responding to Downtown BIA requests and inquiries.

17.2 The City staff representative shall:

- provide the City Clerk with the dates of all Regular Board Meetings for each calendar year prior to the end of the previous calendar year;
- report all changes to the Board of Management to the Clerk;
- be a non-voting member;
- attend all Board Meetings to record and sign the minutes of each Meeting and by-laws of the Board of Management;
- keep all minutes and all books, papers and documents used in and pertaining to the business of the Board of Management and collect, use and disclose records only in accordance with the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.M.56* in consultation with the Clerk;
- have the ability to attend and address any matter at a board meeting, committee meeting or at an annual or general meeting;
- assign an alternate to attend in their place any board meeting, committee meeting, or annual or general; and
- provide high-level administrative, procedural, and technical support to the Board.

17.3 The Board shall provide the City staff representative, upon request, with all Board policies and updates to its governance and operating guidelines and other relevant documents.

18. Regular Board Meetings

18.1 The Board shall hold a minimum of four (4) meetings in each calendar year. At the first regular meeting of the new term, a meeting schedule will be adopted by the Board.

18.2 Notice of BIA Meetings shall be given on the Municipal website in accordance with the City's procedural by-law.

18.3 Meetings will be held on a set day and time as may be determined by the Board or at the call of the Chair. The Board will establish a meeting schedule, taking into account the business needs and the schedule of Council.

18.4 Board meetings may be formally called in writing by the Chair of the Board or the Vice-Chair on the direction of two Directors.

18.5 The Chair shall preside over meetings of the Board. The Vice-Chair shall preside over meetings of the Board if the Chair is absent or unable to act. In the event that the Chair and the Vice-Chair are absent or unable to act, the Directors who are present shall choose one of the Directors to chair the meeting.

18.6 Requests to delegate regarding an item on the Board meeting agenda shall be submitted in writing to the City staff representative by 12 p.m. on the day of the meeting.

18.7 Any person, group of persons, or organization may request to speak to an item listed on the agenda provided that the subject matter of the delegation directly relates to the item on the agenda. All requests to delegate shall be made in writing to the Clerk, outlining the nature of their request, and include any additional material (i.e. PowerPoint) by the deadline stated in section 18.6.

19. Closed Meetings

19.1 All meetings of the Board shall be open to the public, except when considering items in accordance with the criteria for a Closed Meeting as established by section 239 of the Act as follows:

- The security of property of the BIA;

- Personal matters about an identifiable individual, including an employee of the BIA;
- A proposed or pending acquisition of land by the BIA;
- Labour relations or employee negotiations;
- Litigation or potential litigation, including matters before administrative tribunals, affecting the BIA;
- Advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- A matter in respect of which the Board may hold a closed meeting under a statute of Ontario;
- Information explicitly supplied in confidence to the Board of Management by Canada, a province or territory or a Crown agency of any of them;
- A trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the Board of Management, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- A trade secret or scientific, technical, commercial or financial information that belongs to the Board of Management and has monetary value or potential monetary value; or
- A position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the Board of Management.

19.2 In addition to the situations set out in section 19.1, a meeting may be closed to the public if the following conditions are both met:

- The meeting is held for the purpose of educating or training the Board members; and
- At the meeting, no Board Member discusses or otherwise deals with any matter in a way that materially advances the business of decision-making of the Board.

19.3 Before holding a meeting or part of a meeting that is to be closed to the public, the Board shall state by motion:

- The fact of the holding of the closed meeting and the general nature of the matter to be considered at the closed meeting; or

- In the case of a meeting closed under section 19.2, the fact of the holding of the closed meeting, the general nature of its subject matter and that it is to be closed under that section.

19.4 Subject to section 19.5, a meeting shall not be closed to the public during the taking of a vote.

19.5 A meeting may be closed to public during a vote if,

- Section 19.1 or 19.2 permits or requires the meeting to be closed to the public; or
- The vote for a procedural matter or for giving directions or instructions to officers, employees or agents of the BIA or a committee, sub-committee or persons retained under a contract with the BIA.

19.6 Matters arising at any meeting of the Board shall be decided by a majority vote. The Chair shall vote only in the event of a tie vote.

19.7 Notwithstanding section 19.6, a Director may request a recorded vote respecting any matter to be decided by the Board. In such event, the Chair votes and if the vote is a tie, the resolution is lost.

19.8 The Clerk shall advise as to whether matters may be discussed in the Closed Meeting. Written reports and presentations shall be reviewed in advance by the Clerk for the purpose of determining of whether a matter may be discussed in the Closed Meeting.

19.9 Closed Meetings shall not be recorded by any audio or video recording device.

20. Inaugural Meetings

20.1 The Inaugural Meeting shall be held within thirty (30) days from the date upon which the Directors are appointed by Council.

20.2 The Directors shall elect Officers from among themselves at the Inaugural Meeting.

20.3 The City staff representative shall call the Inaugural Meeting to order and chair the meeting until the Chair has been elected. The Chair shall then assume his or her duties as such.

21. Special Meetings

21.1 Subject to the notice provisions contained in section 18.2, a Special Meeting may be called as follows:

- by the Chair by providing direction to the recording secretary in writing stating the date, time and purpose for the Meeting; or
- by a majority of Directors by providing a written petition to the Secretary stating the date, time and purpose for the Special Meeting.

21.2 Only business dealing directly with the purpose mentioned in the notice shall be transacted at any Special Meeting.

21.3 Special Meetings should only be called when business cannot wait until the next regularly scheduled meeting in order to promote transparency.

22. Electronic Meetings

22.1 A Director may participate by electronic means in an electronic meeting.

22.2 The Secretary, in consultation with the Chair, may determine the method and technology to be used for electronic meetings based on the resources available.

22.3 Where the Rules of Procedure conflict with the need to facilitate an electronic meeting, the City staff representative, in consultation with the Chair, shall have the authority to modify the Rules of Procedure to ensure Directors, Members, Delegations and the public, as the case, may be able to effectively participate in the Electronic Meeting.

23. Annual General Meeting

23.1 The Board shall hold a general meeting annually for the purpose of presenting the budget. Annual General Meeting financial statements for the previous year and proposed budgets for the next calendar year must be presented and approved by a majority of the membership present, after which time the figures will be put before Council and the levy requested.

23.2 For greater clarity, the general meeting shall include:

- declarations of conflict of interest;
- annual budget and annual report including the audited financial statements;

- selection of directors (subject to the approval of Council) in an election year;
- new policies adopted or changes made to the governance and operating guidelines;
- minutes of the last annual general meeting; and
- any other business that may properly be brought before the meeting.

23.3 The location of the meetings will be set by the Board.

23.4 The BIA Membership, the Councillor appointed to the Board and the City staff representative shall receive written notice of the Annual General Meeting not less than ten (10) days prior to the meeting date and must be posted on the City's website.

- The accidental omission to give notice to any member, Board member officer or auditor shall not invalidate any action taken at any meeting pursuant to such notice.

23.5 Notice for annual or general meetings shall include the agenda, budget and financial statements (where applicable) and minutes from the previous meeting.

24. Quorum

24.1 Quorum of the Board shall be the majority of Directors.

24.2 No business shall be transacted at a meeting of the Board unless quorum is present.

24.3 There shall be no proxy voting of any kind at meetings of the Board or committees established by the Board.

24.4 The recording secretary shall record in the minutes those Directors who were present and those Directors absent from any Meeting for the purposes of determining Quorum.

24.5 The Board may establish a policy or amend its governance and operating guidelines to establish rules around quorum and proxy voting for Members at annual and/or general meetings.

24.6 If a quorum is not present within fifteen (15) minutes of the time fixed for the commencement of the meeting, the Board may proceed without a quorum, provided that at least three Members are present. The recording secretary is not required to be present and no motions will be passed or minutes prepared.

24.7 When a majority of Directors have disclosed an interest under the *Municipal Conflict of Interest Act*, the remaining Directors at that meeting shall be deemed to constitute the Quorum, provided such number is not less than two (2).

25. Voting

25.1 Each Member has only one (1) vote regardless of the number of properties that the Member may own or lease in the Downtown BIA.

25.2 A corporate Member may nominate in writing one (1) individual to vote on behalf of the corporation.

25.3 One (1) individual may be nominated by two (2) or more corporations that are Members.

25.4 A majority of the Members present at an annual or general meeting shall carry a vote.

26. Minutes

26.1 The recording secretary shall record the proceedings, including procedural motions and direction given, without note or comment.

26.2 The minutes prepared by the recording secretary and approved by the Board of Management are the official record of the Meeting proceedings.

26.3 The recording secretary shall provide copies of all minutes to the City Clerk within ten (10) days after their approval by the Board.

27. Sub-Committees

27.1 The Board may establish sub-committees which may include non-members provided that a sub-committee is chaired by a Director.

27.2 Sub-committees will be instructed to research items or issues and make recommendations for action to the Board, submitted in a written final report that is to be delivered by an established date. The Board is not required to follow the recommendations of the sub-committee.

27.3 Sub-committees will set their own meeting and operational schedule in order to fulfill the tasks set out for the sub-committee by the Board.

27.4 Sub-committees shall not have the authority to enter into a contract on behalf of the Port Colborne Downtown BIA or commit it to any financial obligations or liability.

27.5 Committees shall be structured so that the number of the committee members is less than a quorum of the Board.

28. Complaint Process

The Board shall adopt a policy within the First Term which establishes a complaint process and disciplinary measures related to the nomination and selection of Directors. This policy will require the Board to hire an impartial investigator and allow Members to bring forward a complaint to the impartial investigator. Any disciplinary recommendation from the investigator shall be made available to the Board and City staff representative. For greater clarity, the impartial investigator cannot be a Director or member of the Port Colborne Downtown BIA, and the policy will not be applicable to the nomination and selection of Directors for the first term.

29. Conflict of Interest

Directors are considered a member for the purpose of the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*, and as such, are required to adhere to the provisions of that Act. It is the responsibility of each member to identify and disclose a pecuniary interest on any item or matter which is the subject of consideration at the meeting in accordance with the *Municipal Conflict of Interest Act, R.S.O.1990, c.M. 50*.

Where a Member has any pecuniary interest, direct or indirect, in any matter and is present at a meeting at which the matter is the subject of consideration, the Member will, in accordance with *Municipal Conflict of Interest Act, R.S.O.1990, c.M. 50 (5)*:

- file a written statement of the interest and its general nature with the Clerk prior to the meeting;
- not take part in the discussion of, or vote on any question with respect to, the matter; and
- not attempt in any way before, during and/or after the meeting to influence the vote on the matter.

Where a meeting is not open to the public, in addition to complying with the requirements under the *Municipal Conflict of Interest Act*, the Member will forthwith leave the meeting for the part during which the matter is under consideration.

The Clerk will record the particulars of any disclosure of pecuniary interest made by Members of the Board in the minutes of that meeting and update the Pecuniary Interest Registry. The Registry will be available for public inspection.

30. Financial Procedures and Reports

30.1 The Board shall prepare a proposed annual budget for each fiscal year by the date and in the form required by the City Treasurer and shall hold one or more meetings of the Members for discussion and approval of the annual budget.

30.2 The Board shall submit the approved annual budget to Council by the date and in the form required by the City Treasurer, and Council may approve it in whole or in part but may not add expenditures to it.

30.3 The Board shall adopt and maintain only banking arrangements, bookkeeping services and sound business practices that are satisfactory to the City Treasurer, and the Board shall keep financial records and submit statements in accordance with generally accepted accounting principles.

30.4 The Board shall establish at least one bank account specific to the Downtown BIA and the Board shall appoint at least two Directors (not including a member who is also a member of Council) with signing authority to the account. Cheques issued by the Board shall be signed by two Directors with signing authority.

30.5 All monies spent from the bank account(s) outlined in section 30.4 shall be within the budgeted provisions of the approved annual budget and spent only for the benefit of the Members' businesses.

30.6 The Board shall review and submit on a tri-annual basis by the date and in the form required by City Treasurer, a financial report that compares budget to actual with commentary on progress and differences and a financial summary of cash, accounts receivable and accounts payable.

31. Audit

The Board may be required to submit, at any time during the fiscal year, its books, records and financial information to the City Treasurer upon request.

The accounts and transactions of the Board shall be audited by the Municipal Auditor in the same manner as the accounts and transactions of the City, and all minutes, books, records, documents, transactions, accounts and vouchers of the Board shall be open to the Municipal Auditor for inspection at all times.

32. Prohibition on Borrowing

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

33. Contracts

33.1 To enter into a contract, a resolution approved by the Board shall be required to be entered into the minutes of a board meeting and a copy of the contract is to be attached to the minutes of that meeting and provided to the City staff representative.

33.2 Once approved by resolution, a contract shall bear the signatures of two (2) Directors.

34. Procedures and Policies

Procedures for the proceedings of meetings shall be governed by the City's Procedural By-law and Robert's Rules of Order.

34.1 In accordance with subsection 270(2) of the *Municipal Act, 2001*, the Board shall adopt and maintain procurement policies. The City's Purchasing Policy may be used and adopted by the Board for its use, or it may adopt its own Purchasing Policy subject to approval of the Treasurer.

34.2 If required, the Board shall adopt and maintain a policy respecting "its sale and other disposition of land" and "its hiring of employees" in accordance with subsection 270(2) of the *Municipal Act, 2001*.

35. Remuneration

Board Members shall serve without remuneration, either directly or indirectly, for services rendered as a Board Member, but may be reimbursed for out-of-pocket expenses incurred while representing the BIA, upon approval of the Board.

36. Annual Workplan

An annual workplan with an estimate of the resources necessary for the coming year shall be prepared by the Board.

37. Governance and Operating Guidelines

These governance and operating guidelines set out the mandate and operation of the Port Colborne Downtown Business Improvement Area Board. These rules and procedures are to be observed at meetings of the general membership, the Board and (sub) committees of the Board. The Board shall operate in conformity with the provisions of the *Municipal Act* and the City's By-laws. The Board may make additions to its governance and operating guidelines provided that any additions are not in conflict with and do not undermine the intent of these governance and operating guidelines.

38. Resources

- 38.1 By-law to Govern the Proceedings of Council and Committee Meetings
- 38.2 *Municipal Act, 2001*
- 38.3 Code of Conduct
- 38.4 Appointment to Boards/Committees Policy
- 38.5 *Conflict of Interest Act*
- 38.6 Robert's Rules of Order
- 38.7 *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA)



Schedule "B" to Port Colborne Downtown
BIA Procedural, Financial, Governance
and Operating Guidelines

No.: _____



Downtown Business
Improvement Area



NOT TO SCALE

NOT A SURVEY

February 1, 2012

Drawn By: L Richardson

The Corporation of the City of Port Colborne

By-Law No. _____

Being a By-law to Appoint a Member to the Downtown Port Colborne Business Improvement Area Board of Management

Whereas the Council of The Corporation of the City of Port Colborne passed By-Law No. 692/8/78, being a By-law to Designate a Certain Area as an Improvement Area, on the 24th day of April 1978 and the said by-law received Ontario Municipal board approval on the 25th day of May, 1978;

Whereas pursuant to Section 204, Sub-section (3) of the *Municipal Act, 2001*, the Council of the Corporation of the City of Port Colborne appointed members to the Board of Management for the 2022-2026 term of Council on February 28, 2023;

Whereas the Council of the Corporation of the City of Port Colborne is desirous of amending the appointments to the Board of Management;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That the following members be appointed to the Downtown Port Colborne Business Improvement Area Board of Management for a term ending on November 14, 2026:
 - Norbert Gieger
 - Ed Cleveland
 - Rosemari Poisson
 - Larry Beverly
 - Anna Maria Crognale
 - Harry Hamilton
2. That this by-law shall come into force and take effect on the date of final passing.

Enacted and passed this 5th day of September 2023.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk

The Corporation of the City of Port Colborne

By-Law No. _____

Being a by-law to adopt, ratify and confirm
the proceedings of the Council of The
Corporation of the City of Port Colborne at
its Special Meeting of September 5, 2023

Whereas Section 5(1) of the *Municipal Act, 2001*, provides that the powers of a municipality shall be exercised by its council; and

Whereas Section 5(3) of the *Municipal Act, 2001*, provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

Whereas it is deemed expedient that the proceedings of the Council of The Corporation of the City of Port Colborne be confirmed and adopted by by-law;

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. Every action of the Council of The Corporation of the City of Port Colborne taken at its Special Meeting of September 5, 2023, upon which a vote was taken and passed whether a resolution, recommendations, adoption by reference, or other means, is hereby enacted as a by-law of the City to take effect upon the passing hereof; and further
2. That the Mayor and Clerk are authorized to execute any documents required on behalf of the City and affix the corporate seal of the City and the Mayor and Clerk, and such other persons as the action directs, are authorized and directed to take the necessary steps to implement the action.

Enacted and passed this 5th day of September, 2023.

William C. Steele
Mayor

Saima Tufail
Acting City Clerk