

The Corporation of the Municipality of West Perth
By-law ___ - 14

**Being a By-Law to Designate and Establish an Improvement Area known as the
Mitchell Business Improvement Area**

Whereas section 204 of the Municipal Act, 2001, S.O. 2001, c. 25, authorizes a local municipality to designate an area as an Improvement Area and to establish a Board of Management;

And whereas the Council of the Municipality of West Perth enacted By-law 130-08, "Being a By-law to Designate and Establish and Improvement Area known as the Mitchell Business Improvement Area", on December 15th, 2008;

And whereas notice of By-law 130-08 was given in accordance with Section 210 of the said Act;

And whereas the Clerk of the Municipality of West Perth determined that the conditions set out in subsection 210(3) of the said Act were met for By-law 130-08;

And whereas amendments to By-law 130-08 are desired, but not to the designated area itself shown in Schedule "A" of By-law 130-08;

Now therefore be it resolved that the Council of the Corporation of the Municipality of West Perth enacts as follows:

Establishment and Purpose:

1. The Municipality hereby designates the area shown as Schedule "A" as an Improvement Area within the meaning of the Municipal Act, to be known as the "Mitchell Business Improvement Area" (hereinafter called the "Improvement Area").
2. The Municipality hereby establishes a Board of Management to be known as the "Board of Management for the Mitchell Business Improvement Area" (hereinafter called the "Board") for the Improvement Area.
3. Subject to obtaining the approval of the Council of the Municipality of West Perth (hereinafter called the "Council") for all projects, the Municipality provides to the Board the ability to improve, beautify and maintain municipally-owned land, buildings and structures in the Improvement Area, beyond such improvement, beautification and maintenance as is provided at the expense of the Municipality generally.
4. The Municipality also provides to the Board the ability to promote the Improvement Area as a business or shopping area.

Membership:

5. Members of the Improvement Area consist of persons who are assessed, on the last return assessment roll, with respect to rateable property in the Improvement Area that is in a prescribed business property class and tenants of such commercial and industrial property, or nominees of corporations so assessed.
6. The Board may approve associate members to the Improvement Area membership, provided they meet the criteria and pay the requisite fees of such membership, as determined by the Board.

Board of Management:

7. A Board shall be established for each Business Improvement Area designated by by-law and the name of each Board shall be "Board of Management for the Mitchell Business Improvement Area."
8. The Board may administer the affairs of the Improvement Area in all things and make or cause to be made for the Improvement Area in its name, any kind of contract which the Improvement Area may lawfully enter into and, save as herein provided, generally, may exercise all such other powers and do all such other acts and things as the Improvement Area is by the Act or this By-law as amended from time to time or otherwise authorized to exercise and do.
9. The Board shall consist of minimum of _____ () and a maximum of _____ () members, one of whom shall be a member of the Council, with the remaining members being persons assessed with respect to rateable property in the Improvement Area that is in a prescribed business property class and/or tenants of such property or nominees of corporations so assessed.
10. Other than the one (1) member who shall be a member of the Council, Board members shall be selected by a vote of the membership of the Improvement Area and appointed by the Council.
11. Nominations are open from September 5 to October 5 in the year of a municipal election. The Board shall supply the Clerk with the notice calling for nominations at least twenty-one (21) days prior to September 5.
 - a. The Municipality shall send a notice calling for nominations on behalf of the Improvement Area by prepaid mail at least fourteen (14) days prior to September 5 to Improvement Area property owner members;
 - b. The Board shall ensure the distribution of notices calling for nominations at least fourteen (14) days prior to September 5 to Improvement Area tenant members, and shall also post the notice of nominations on the Improvement Area's website;
 - c. Nominations must be received by the Clerk by 5:00 pm on October 5 and must be signed by two (2) Members of the Improvement Area.
12. A maximum of one Board nomination per assessed property and one Board nomination per business is allowed, unless alternate provisions are established by the by-law appointing the Board members and all commercial or industrial property owners and commercial or industrial business tenants, or the designates of the owners or tenants, may stand for Board nomination.
13. The Council may refuse to appoint a person selected by the members of the Improvement Area to the Board, in which case the Municipality may leave the position vacant or direct that a meeting of the members of the Improvement Area be held to elect or select another candidate for Council's consideration.
14. Each Board member shall hold office from the time of his or her appointment until the expiration of the term of Council that appointed him or her, provided he or she continues to be so qualified as provided in Section 5 of this By-law. Each Board member is eligible for reappointment upon the expiration of the term of his or her office.
15. The members of the Board shall hold office until their successors are appointed.

16. The office of a Board member shall be vacated upon the occurrence of any of the following events:
 - a. If by notice in writing to the Board the Board member resigns their office and such resignation, if not effective immediately, becomes effective in accordance with its terms;
 - b. If the Board member is absent from three (3) consecutive meetings of the Board provided that if in the opinion of the Board such absence is justified or the interests of the Improvement Area can best be served by retaining such a member on the Board, the Board may excuse such absence; or
 - c. The Board may by two thirds (2/3) majority vote of the Board determine whether or not to request the member to submit his/her resignation. If said member fails to submit his/her resignation within fifteen (15) clear days, the member is deemed resigned. The Board shall give to the Clerk signed minutes of the meeting at which the vote was held to remove the member.
17. Subject to Section 9, where a vacancy on the Board occurs from any cause, Council may appoint a person to fill the vacancy for the unexpired portion of the term, and the appointed person is not required to be a member of the Improvement Area.
18. The Board shall, as soon as possible after its members are appointed, elect within the Board a Chair, Vice-Chair and a Secretary, and such other Officers as the Board may deem necessary to properly conduct their business during the year. Re-election of Officers from within the Board shall occur on an annual basis thereafter.
19. The Board shall hold at least _____ () meetings each year, to be scheduled by the Board, as well as an Annual General Meeting of the members of the Improvement Area (hereinafter called the "Annual General Meeting"), to which all members of the Improvement Area shall be invited.
20. A majority of members of the Board constitutes a quorum of the Board for meetings.
21. Members of Improvement Area and general public are welcome to attend all meetings of the Board, but only the members of the Board shall be permitted to vote on the items that come before the Board for a decision.
22. The Board shall adhere to the Municipality's Procedure By-law, which governs the calling, place and proceedings of meetings. The Board shall also adhere to the Municipality's policies pertaining to the procurement of goods and services, and (as applicable) the hiring/termination of employees.
23. Members of the Board shall receive no remuneration either directly or indirectly for services rendered on behalf of the Board, but may be reimbursed for out of pocket expenses at non-Improvement Area functions, only upon approval of the Board.
 - a. The above requirement does not pertain to the services purchased from a Board member's business;
 - b. A Board member who is in any way has direct or indirect interest in a service purchased, or service proposed to be purchased, shall disclose his or her interest to the Board, and shall not participate in the respective discussion or vote on any resolution to approve such purchase.
24. 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 of the Board and to the Clerk as soon as possible after the meeting covered thereby.

Financial:

25. The Board shall adopt and maintain banking arrangements and good accounting practices that are acceptable to the Municipality's Treasurer and Auditor and shall keep such books of account and shall submit such statements from time to time as the Municipality's auditor may require.
26. The Municipality's Auditor shall be the Auditor of the Board and all books, documents, transactions, minutes and accounts of the Board shall at all times be open to his or her inspection.
27. The fiscal year of the Board shall be the calendar year.
28. On or before the 1st day of May in each year, the Board shall submit its annual report for the preceding year to Council. The annual report shall include a complete audited financial statement of the Board's affairs with balance sheet and revenue and expenditure statement.
29. The Board shall submit to Council its estimates for the current year in a form and at a time satisfactory to the Treasurer for the Municipality of West Perth and may make requisitions upon the Council for all sums of money required to carry out its powers and duties, but nothing in this section divests the Council of its authority with reference to rejecting such estimates in whole or in part or providing the money for the purposes of the Board and when money is so provided by the Council the Treasurer shall, upon the certificate of the Board, pay out such money to the Board.
30. Nothing in this By-law shall prevent the Board from obtaining the assistance of persons with special qualifications to provide the Board with plans and information to enable the Board to carry out its duties and responsibilities as established under Sections 3 and 4 of this By-law.
31. The Municipality shall annually raise the amount required for the purposes of the Board, including any interest payable by the Municipality on money borrowed by it for the purposes of the Board, by levy upon rateable property in the Improvement Area that is in a prescribed business property class.
32. Council may establish a minimum or maximum charge or both through a By-law, expressed for one or more separately assessed properties or categories of separately assessed properties in a class, as:
 - a. Percentages of the assessed value of rateable property in the Improvement Area that is in a business property class;
 - b. Dollar amounts; or,
 - c. Percentages of a Board's annual budget.
33. When a By-law is passed pursuant to **Section 32** of this By-law, the amount of a charge levied in a year shall not, when calculated for the individual property in the class to which it applies, be less than or greater than the amount of the applicable minimum and maximum charge for the property established under the By-law and if necessary for a fiscal year to raise the amount because a minimum or maximum charge applies to one or more separately assessed properties or categories of separately assessed properties in the prescribed class, Council shall for the year adjust any charges applicable to the remaining individual properties or subclasses of properties in the class by adjusting the percentage or percentages of assessment for those properties.
34. Charges levied under **Section 31** of the By-law shall have a priority lien status and shall be added to the tax roll.

35. The Board shall not expend any money not included in the estimates approved by Council or in a reserve fund established under Section 417 of the Municipal Act, S.O. 2001, c. 25, 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 audited financial statement.
36. The Board shall not borrow or lend money and, without the prior approval of the Council, it may not incur any indebtedness extending beyond the current year.
37. The Board shall not make or fund capital improvements to private property.

Annual General Meeting:

38. Notice of the Annual General Meeting must include the meeting agenda and proposed budget.
39. A complete audited financial statement of the Board's affairs including complete audited and certified financial statement of its affairs with balance sheet and revenue and expenditure statement **from the previous year** must be available at the Annual General Meeting.
40. The Board shall supply the Clerk with the notice of the Annual General Meeting and any materials to be included in it at least twenty-one (21) days before the date of the Annual General Meeting.
41. The Municipality shall send notice of the Annual General Meeting on behalf of the Improvement Area by prepaid mail at least fourteen (14) days before the date of the meeting to Improvement Area property owner members.
42. The Board shall ensure the distribution of notices at least fourteen (14) days before the date of the meeting to Improvement Area tenant members, **and shall also post the notice on on the Improvement Area's website;**
43. The Annual General Meeting shall be held prior to the 1st day of May of the respective year, unless otherwise approved by Council.
44. **Each member of the Improvement Area is entitled to a single vote per question or motion at the Annual General Meeting, regardless of the number of properties that the member may own or lease in the Improvement Area. No proxy voting of any kind shall be permitted.**

Repeal of Designated Improvement Area/ Dissolution of the Board:

45. Upon the repeal **of the By-law to designate** the Improvement Area, the Board is dissolved and the assets, liabilities and **undertakings** of the Board become the assets, liabilities and **undertakings** of the Municipality.
46. **If the By-law to designate the Improvement Area is repealed** and Board is dissolved, and the liabilities exceed the assets assumed by the Municipality, Council shall recover the difference by imposing a charge on all rateable property in the former Business Improvement Area.

READ a FIRST and a SECOND TIME this ____ day of _____, 2014.

READ a THIRD TIME and FINALLY PASSED this ____day of _____, 2014.

Mayor Walter McKenzie

Clerk Florence Stalenhoef